

SENATE BILL No. 489

DIGEST OF INTRODUCED BILL

Citations Affected: IC 4-13-12; IC 4-23-7-2.1; IC 4-23-7-3; IC 4-23-7-3.2; IC 4-23-7-5.3; IC 4-23-7.1-23; IC 4-23-7.2; IC 4-23-8; IC 4-23; IC 4-35; IC 5-15-5.1; IC 6-3.1-16; IC 10-7-2-34; IC 14-8-2; IC 14-9-4-1; IC 14-10; IC 14-11-3-1; IC 14-12-2; IC 14-20; IC 14-21-1; IC 14-29-1-8; IC 14-34-4-10; IC 20-11-3-5.5; IC 20-14-12; IC 23-14; IC 34-30-2-55.5.

Synopsis: Historic preservation and department of heritage. Establishes the department of Indiana heritage. Provides that the department consists of: (1) the office of the commissioner; (2) the historic preservation and archeology division (DHPA); (3) the history division; (4) the Indiana state library division; (5) the public records division; and (6) the Indiana state museum division. Enables DHPA to take immediate action to protect state owned historic properties affected by disaster and to make recommendations to the historic preservation review board on applications to change state owned historic properties. Requires the DHPA to survey and rate state owned historic properties and provide an educational program concerning those properties. Requires each state entity having historic property to have a historic preservation officer. Gives the Historic Landmarks Foundation standing to take court action to enforce the historic preservation law. Requires a person who seeks a court order to remove a deceased human being from a cemetery to show that the removal complies with an archeological plan or a development plan approved by the DNR. Eliminates the library and historical board. Creates the Indiana heritage commission to act as an advisory board for the department of Indiana heritage. Makes conforming amendments.

Effective: July 1, 2003.

Merritt

January 21, 2003, read first time and referred to Committee on Finance.



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First Regular Session 113th General Assembly (2003)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2002 Regular or Special Session of the General Assembly.

SENATE BILL No. 489

A BILL FOR AN ACT to amend the Indiana Code concerning state offices and administration.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 4-35 IS ADDED TO THE INDIANA CODE AS A
- 2 **NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1,**
- 3 **2003]:**
- 4 **ARTICLE 35. DEPARTMENT OF INDIANA HERITAGE**
- 5 **Chapter 1. Definitions**
- 6 **Sec. 1. "Agricultural purpose", for purposes of IC 4-35-5-9, has**
- 7 **the meaning set forth in IC 4-35-5-9.**
- 8 **Sec. 2. "Artifact", for purposes of IC 4-35-5, has the meaning set**
- 9 **forth in IC 4-35-5-2.**
- 10 **Sec. 3. "Burial ground", for purposes of IC 4-35-5, has the**
- 11 **meaning set forth in IC 4-35-5-3.**
- 12 **Sec. 4. "Burial object", for purposes of IC 4-35-5, has the**
- 13 **meaning set forth in IC 4-35-5-4.**
- 14 **Sec. 5. "Commission", for purposes of this article, refers to the**
- 15 **Indiana heritage commission established by IC 4-35-4-1.**
- 16 **Sec. 6. "Commissioner", for purposes of this article, refers to**
- 17 **the commissioner of the department of Indiana heritage appointed**



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under IC 4-35-3-2.

Sec. 7. "Contributing property", for purposes of this article, means a site or structure that:

- (1) contributes materially to the significance of a historic property; or
- (2) would, if altered from its present condition or converted to a proposed use, have a material adverse effect on a historic property.

Sec. 8. "Department", for purposes of this article, refers to the department of Indiana heritage established by IC 4-35-2-1.

Sec. 9. (a) "Division", for purposes of IC 4-35-5, has the meaning set forth in IC 4-35-5-5.

(b) "Division", for purposes of IC 4-35-6, has the meaning set forth in IC 4-35-6-1.

Sec. 10. (a) "Heritage", for purposes of this article, means all past and present manifestations in Indiana of:

- (1) Indiana history and folklore;
- (2) Indiana architecture, engineering, landscape design, and planning;
- (3) physical features created or shaped by human hands that have value and meaning to the people of the state; and
- (4) surviving remains of prehistoric and historic cultures.

(b) The term includes manifestations that are:

- (1) tangible or intangible;
- (2) in handwritten, printed, audio-visual, oral, or electronic form;
- (3) designed and constructed or accrued over the passage of time; and
- (4) located above or below ground.

Sec. 11. "Historic property", for purposes of this article, means:

- (1) a historic site;
- (2) a historic structure; or
- (3) other personal or real property located on or in a historic site or historic structure.

Sec. 12. "Historic site", for purposes of this article, means a site that is important to the general, archeological, agricultural, economic, social, political, architectural, industrial, or cultural history of Indiana. The term includes adjacent property that is necessary for the preservation or restoration of the site.

Sec. 13. "Historic structure", for purposes of this article, means a structure that is important to the general, archeological, agricultural, economic, social, political, architectural, industrial,

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or cultural history of Indiana. The term includes adjacent property that is necessary for the preservation or restoration of the structure.

Sec. 14. "Human remains", for purposes of IC 4-35-5, has the meaning set forth in IC 4-35-5-6.

Sec. 15. "Interested party", for purposes of IC 4-35-5-34, has the meaning set forth in IC 4-35-5-34.

Sec. 16. "Person", for purposes of this article, means an individual, a partnership, an association, a fiduciary, an executor or administrator, a limited liability company, a corporation, or a governmental entity.

Sec. 17. "Plan", for purposes of IC 4-35-5, has the meaning set forth in IC 4-35-5-7.

Sec. 18. "Proceeding", for purposes of IC 4-35-5-34, has the meaning set forth in IC 4-21.5-1-13.

Sec. 19. "Review board", for purposes of this article, refers to the historic preservation review board established by IC 4-35-5-35.

Sec. 20. "Site", for purposes of this article, includes the following:

(1) An aboriginal mound, a fort, an earthwork, a village location, a burial ground, a ruin, a mine, a cave, a battleground, a shipwreck, or other similar location on land or under water.

(2) A location that contains or did contain a structure.

Sec. 21. "State action", for purposes of IC 4-35-5-34, has the meaning set forth in IC 4-35-5-34(c).

Sec. 22. "State college or university project", for purposes of IC 4-35-5, has the meaning set forth in IC 4-35-5-8.

Sec. 23. "State register", for purposes of this article, refers to the register of Indiana historic sites and historic structures established under IC 4-35-5.

Sec. 24. "Structure", for purposes of this article, means a manmade construction.

Sec. 25. "Subject property", for purposes of IC 4-35-5-34, has the meaning set forth in IC 4-35-5-34(d).

Sec. 26. "Substantial alteration", for purposes of IC 4-35-5-33, has the meaning set forth in IC 4-35-5-33(a).

Chapter 2. Establishment of Department of Indiana Heritage; Indiana Heritage Fund

Sec. 1. The department of Indiana heritage is established.

Sec. 2. The department consists of the following:

(1) The office of the commissioner.



(2) The historic preservation and archeology division established by IC 4-35-5-10.

(3) The history division established by IC 4-35-6-2.

(4) The Indiana state library division established by IC 4-23-7-3.

(5) The public records division created by IC 5-15-5.1.

(6) The Indiana state museum division established by IC 14-20-1.

(7) Other offices, divisions, and personnel necessary for the performance of the functions imposed upon the department.
Sec. 3. The purpose of the department is to:

(1) promote and facilitate the preservation, enhancement, enjoyment, and educational interpretation of the varied forms of Indiana heritage; and

(2) perform other educational functions.

Sec. 4. (a) The department of Indiana heritage may accept gifts, bequests, and devises of personal and real property for the maintenance, use, or benefit of the department or any of its divisions under terms and conditions and with obligations, liabilities, and burdens that the commissioner believes are in the best interest of the department.

(b) The department shall not assume any obligation, liability, or burden that exceeds appropriations made by law for the payment of such obligations, liabilities, and burdens.

Sec. 5. (a) The department of Indiana heritage fund is established as a dedicated fund to be administered by the department. Money in the fund may be expended by the commissioner exclusively to further the purpose of the department or any of its divisions.

(b) The fund consists of the following:

(1) Gifts of money or the proceeds from the sale of gifts donated to the fund.

(2) Investment earnings from any part of the fund.

(c) Money accruing in the fund is appropriated continuously for purposes specified in subsection (a).

(d) Money remaining in the fund does not revert to the state general fund at the end of a state fiscal year. However, if the fund is abolished, its contents revert to the state general fund.

Chapter 3. Office of the Commissioner of the Department

Sec. 1. The office of the commissioner of the department is established.

Sec. 2. (a) The governor shall appoint the commissioner, who

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1 serves at the pleasure of the governor. The commissioner is the
2 executive and chief administrative officer of the department.

3 (b) The commissioner must have both of the following:

4 (1) A graduate degree in one (1) or more of the following
5 subjects:

6 (A) Archeology or a closely related field.

7 (B) Museum studies, history, historic preservation, or a
8 closely related discipline.

9 (C) Library science or management.

10 (D) History, archives management, or a closely related
11 field.

12 (2) At least ten (10) years of professional experience in one (1)
13 or more of the following disciplines:

14 (A) Historic preservation or archeology.

15 (B) Managing a historic site or museum.

16 (C) Library management.

17 (D) Information and forms management or archives
18 management.

19 Sec. 3. The commissioner is entitled to compensation in an
20 amount to be fixed by the Indiana department of administration
21 with the approval of the governor.

22 Sec. 4. The commissioner may do the following:

23 (1) Appoint and remove the director of each division of the
24 department.

25 (2) Delegate authority to appropriate department staff.

26 (3) Create other offices and divisions.

27 (4) Appoint advisory councils to consult and advise on the
28 work of the department and its divisions.

29 Sec. 5. The commissioner shall supervise the work of the
30 department and of each of the divisions of the department.

31 Sec. 6. (a) Employees of each division, except the director, shall
32 be selected by the director of the division with the approval of the
33 commissioner and may be removed by the director for cause at any
34 time with the approval of the commissioner.

35 (b) The commission may adopt rules under IC 4-22-2
36 prescribing academic preparation and special training required for
37 employees of the department who hold certain positions.

38 (c) The commission may provide that appointments may be
39 made only after an applicant has successfully passed an
40 examination given by the commissioner or some person designated
41 by the commissioner.

42 (d) The budget agency shall fix the compensation of the director



of each division. The director shall fix the compensation of the employees of the division with the approval of the commissioner and the budget agency.

(e) An employee of the department may not directly or indirectly solicit subscriptions or contributions for a political party or political purpose, be forced in any way to make a contribution, or be required to participate in any form of political activity.

(f) All department employees are covered under IC 4-15-2.

Chapter 4. Indiana Heritage Commission

Sec. 1. The Indiana heritage commission is established. The commission consists of eighteen (18) members as follows:

(1) The commissioner of the department of Indiana heritage or the commissioner's designee.

(2) The director of the department of natural resources or the director's designee.

(3) The director of the department of commerce or the director's designee.

(4) The commissioner of the Indiana department of transportation or the commissioner's designee.

(5) The state superintendent of public instruction or the superintendent's designee.

(6) The secretary of state or the secretary of state's designee.

(7) The executive director of the Indiana war memorials commission.

(8) The executive director of the Indiana arts commission.

(9) The following four (4) individuals appointed by the commissioner:

(A) A member of the historic preservation review board established by IC 4-35-5-35.

(B) A member of the board of trustees of the Indiana state museum division established under IC 14-20-1.

(C) A member of the Indiana state library advisory council established by IC 4-23-7.1-39.

(D) A member of the oversight committee on public records established by IC 5-15-5.1-18.

(10) Six (6) citizens appointed by the governor, not more than three (3) from the same political party.

Sec. 2. The governor may fill a vacancy in the ex officio membership of the commission by temporary appointment. However, the term of a member appointed under this section terminates upon the filling of the office.

Sec. 3. (a) The term of a citizen member of the commission is



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three (3) years, and a citizen member may not serve more than three (3) terms.

(b) The governor may remove a citizen member for cause.

(c) When a vacancy occurs in the citizen membership of the commission because of death, resignation, removal, or other cause, the governor shall appoint a person to fill the vacancy for the unexpired term.

Sec. 4. (a) The members of the commission who are not state employees are entitled to the minimum salary per diem as provided in IC 4-10-11-2.1 (b) for each day that the members are engaged in the official business of the commission.

(b) The members of the commission are entitled to reimbursement for travel, lodging, meals, and other expenses as provided in the state travel policies and procedures established by the Indiana department of administration and approved by the budget agency.

Sec. 5. (a) The commissioner or the commissioner's designee shall serve as chairperson of the commission and shall preside at meetings.

(b) The commission members may select other officers as the commission determines.

Sec. 6. A majority of the members of the commission constitutes a quorum for the transaction of business, the exercise of powers, or the performance of duties.

Sec. 7. (a) The commission shall have at least four (4) regular meetings in each fiscal year and as many additional or special meetings as the commission's business, powers, or duties require.

(b) The chairperson:

(1) may call a special meeting; and

(2) shall call a special meeting at the request of any five (5) members.

Sec. 8. The commission shall advise the commissioner on:

(1) the operation of the department;

(2) the execution of the department's mandates; and

(3) other issues the commissioner refers to the commission.

Sec. 9. The commission may appoint administrative law judges. An administrative law judge is subject to IC 4-15-2. A person who is not appointed by the commission may not act as an administrative law judge for the commission. The commissioner may create a hearings division to assist in performing the functions of this section.

Sec. 10. The commission is the ultimate authority of the

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department under IC 4-21.5.

Sec. 11. (a) The commission shall adopt rules under IC 4-22-2 to carry out the commission's duties under this article.

(b) Whenever the commissioner, the department, or any division of the department has the authority to adopt rules under IC 4-22-2, the commission shall exercise the authority exclusively.

Sec. 12. (a) The commission may issue a notice of violation to a person who violates a law administered by the department for which a misdemeanor or an infraction penalty is established. If the person:

(1) receives the notice; and

(2) fails to abate within a period of not less than fifteen (15) days the violation specified in the notice;

the commission may impose a charge that does not exceed the maximum amount that may be assessed by a court for committing the violation.

(b) IC 4-21.5 applies to proceedings by the commission under this section. The department has the burden of proving the alleged violation by a preponderance of the evidence.

(c) A separate notice of violation may be issued or a separate charge imposed for each day a violation occurs.

(d) The person may establish as an affirmative defense the filing by a prosecuting attorney of a misdemeanor information or infraction complaint based on the same event as that upon which the notice of violation was based. The person has the burden of proving the affirmative defense.

(e) The remedy provided by this section is supplemental to other remedies.

Chapter 5. Historic Preservation and Archeology Division

Sec. 1. This chapter does not apply to the human remains of individuals who die after December 31, 1939.

Sec. 2. As used in this chapter, "artifact" means an object made or shaped by human workmanship before December 11, 1816.

Sec. 3. As used in this chapter, "burial ground" means ground in which human remains are buried. The term includes the land associated with or incidental to the burial of human remains.

Sec. 4. As used in this chapter, "burial object" means an item intentionally placed in a burial ground at or near the time of burial.

Sec. 5. As used in this chapter, "division" refers to the historic preservation and archeology division established by section 10 of this chapter.



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1 **Sec. 6. As used in this chapter, "human remains" means any**
 2 **part of the body of a human being in any:**

- 3 (1) stage of decomposition; or
 4 (2) state of preservation.

5 **Sec. 7. (a) As used in this chapter, "plan" refers to:**

- 6 (1) an archeological plan, as described in subsection (b); or
 7 (2) a development plan, as described in subsection (c).

8 (b) As used in this chapter, "archeological plan" means a plan
 9 for the systematic recovery, analysis, and disposition by scientific
 10 methods of material evidence and information about the life and
 11 culture in past ages.

12 (c) As used in this chapter, "development plan" means a plan
 13 for the erection, alteration, or repair of any structure.

14 **Sec. 8. As used in this chapter, "state college or university**
 15 **project" means a project of a state college or university that**
 16 **involves the construction, renovation, or demolition of one (1) or**
 17 **more buildings.**

18 **Sec. 9. (a) As used in this section, "agricultural purpose"**
 19 **includes farming, dairying, pasturage, agriculture, horticulture,**
 20 **floriculture, viticulture, ornamental horticulture, olericulture,**
 21 **pomiculture, animal husbandry, and poultry husbandry.**

22 (b) Sections 21, 22, 25, and 26 of this chapter do not apply to the
 23 following:

- 24 (1) Surface coal mining regulated under IC 14-34.
 25 (2) Cemeteries and human remains subject to IC 23-14.
 26 (3) Disturbing the earth for an agricultural purpose.
 27 (4) Collecting an object other than human remains that is
 28 visible in whole or in part on the surface of the ground,
 29 regardless of the time the object was made or shaped.

30 **Sec. 10. The historic preservation and archeology division is**
 31 **established as a division within the department of Indiana heritage.**

32 **Sec. 11. The commissioner is designated as the state historic**
 33 **preservation officer.**

34 **Sec. 12. (a) The commissioner shall appoint a director to be the**
 35 **chief administrative officer of the division.**

36 (b) The director must have:

- 37 (1) a graduate degree in historic preservation, archeology, or
 38 a closely related field; and
 39 (2) at least three (3) years of professional experience in either
 40 historic preservation or archeology.

41 (c) The director may be removed by the commissioner at any
 42 time.

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1 **Sec. 13.** The division shall be organized in a manner determined
 2 by the director of the division with the approval of the
 3 commissioner. The duties of the division established by law may be
 4 supplemented by the commissioner.

5 **Sec. 14.** The division shall do the following:

6 (1) Develop a program of historical, architectural, and
 7 archeological research and development, including continuing
 8 surveys, excavations, scientific recording, interpretation, and
 9 publication of the state's historical, architectural, and
 10 archeological resources.

11 (2) Prepare a preservation plan for the state that establishes
 12 planning guidelines to encourage the continuous maintenance
 13 and integrity of historic sites and historic structures.
 14 However, the plan is not effective until the plan is:

15 (A) presented to the review board for review and
 16 comment; and

17 (B) approved by the commission after public hearing.

18 (3) Undertake the action necessary to qualify the state for
 19 participation in sources of federal aid to further the purposes
 20 stated in subdivisions (1) and (2).

21 (4) Provide information on historic sites and structures within
 22 Indiana to federal, state, and local governmental agencies,
 23 private individuals, and organizations.

24 (5) Advise and coordinate the activities of local historic
 25 preservation commissions and other interested groups or
 26 persons.

27 (6) Provide technical and financial assistance to local historic
 28 preservation commissions and other interested groups or
 29 persons.

30 (7) Review environmental impact statements as required by
 31 federal and state law for actions significantly affecting
 32 historic properties.

33 (8) Undertake a statewide survey to identify and document
 34 historic sites and historic structures.

35 (9) Prepare, establish, and maintain a state register of Indiana
 36 historic sites and historic structures and establish criteria for
 37 listing historic sites and historic structures on the register.

38 (10) Maintain the Indiana part of the National Register of
 39 Historic Places under 16 U.S.C. 470 et seq.

40 (11) Administer the federal Preservation Grants Program
 41 under 16 U.S.C. 470 et seq.

42 **Sec. 15.** The division may do the following:



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(1) Recommend the purchase, lease, or gift of historic property of archeological importance and make recommendations to the commissioner regarding policies affecting the operation and administration of those sites and structures by the history division.

(2) Prepare and review planning and research studies relating to archeology.

(3) Conduct a program of education in archeology, either within the division or in conjunction with an institution of higher education.

(4) Inspect and supervise an archeological field investigation authorized by this chapter.

Sec. 16. (a) The division may conduct a program to survey and register in a registry of Indiana cemeteries and burial grounds that the division establishes and maintains all cemeteries and burial grounds in each county in Indiana. The division may conduct the program alone or by entering into an agreement with one (1) or more of the following entities:

(1) The Indiana Historical Society established under IC 23-6-3.

(2) A historical society (as defined in IC 20-5-17.5-1(a)).

(3) Historic Landmarks Foundation of Indiana.

(4) A professional archeologist or historian associated with a college or university.

(5) A township trustee.

(6) Any other entity that the division selects.

(b) This section may not be construed to authorize violation of the confidentiality of information requirements of 16 U.S.C. 470(w) and 16 U.S.C. 470hh.

(c) The division may record in each county recorder's office the location of each cemetery and burial ground located in that county.

Sec. 17. (a) The division may accept gifts, bequests, and devises of personal and real property for the maintenance, use, or benefit of the division under such terms and conditions and with the obligations, liabilities, and burdens that the director and the commissioner believe are in the best interest of the division.

(b) The division may not assume any obligation, liability, or burden that exceeds appropriations made by law for the payment of such obligations, liabilities, and burdens.

Sec. 18. (a) The historic preservation and archeology division fund is established as a dedicated fund to be administered by the division. Money in the fund may be expended by the director

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exclusively for the maintenance, use, or benefit of the division.

(b) The fund consists of the following:

(1) The proceeds from the sale of items as directed by law or by the director.

(2) Gifts of money and the proceeds from the sale of gifts donated to the fund.

(3) Investment earnings from any part of the fund.

(c) Money accruing in the fund is appropriated continuously for purposes specified in subsection (a).

(d) Money remaining in the fund does not revert to the state general fund at the end of a state fiscal year. However, if the fund is abolished, its contents revert to the state general fund.

Sec. 19. Each state, county, township, city, town, judicial officer, or other public officer who has custody of, is capable of supplying, or is required to collect and compile information that may be required by the division shall supply the information promptly at the request of the division, whether the request is:

(1) oral;

(2) by letter or circular; or

(3) by forms provided to the officer to complete.

Sec. 20. (a) The historic preservation and archeology division established within the department of Indiana heritage is a continuation of the division of historic preservation and archeology of the department of natural resources.

(b) The rules adopted by the natural resources commission concerning the division of historic preservation and archeology of the department of natural resources shall be treated, after June 30, 2003, as rules of the Indiana heritage commission.

(c) On July 1, 2003, all powers, duties, assets, and liabilities of the division of historic preservation and archeology of the department of natural resources are transferred to the historic preservation and archeology division of the department of Indiana heritage established by this article as the successor agency.

(d) On July 1, 2003, all powers, duties, assets, and liabilities of the department of natural resources that are attributable to the division of historic preservation and archeology are transferred to the department of Indiana heritage.

(e) After July 1, 2003, any reference in a statute or rule to:

(1) the department of natural resources in a statute or rule concerning the division of historic preservation and archeology shall be treated as a reference to the department of Indiana heritage;

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(2) the division of historic preservation and archeology shall be treated as a reference to the historic preservation and archeology division; and

(3) the director of the department of natural resources in a statute or rule concerning the division of historic preservation and archeology shall be treated as a reference to the commissioner of the department of Indiana heritage.

Sec. 21. (a) The commission shall adopt rules under IC 4-22-2 establishing standards for plans.

(b) With respect to archeological plans, the rules must impose a standard of conduct that does the following:

(1) Promotes the scientific investigation and conservation of past cultures.

(2) Considers the interests and expertise of amateur archeologists and professional archeologists.

(c) With respect to development plans, the rules must impose a standard of conduct that preserves and protects both of the following:

(1) The rights and interests of landowners.

(2) The sensitivity of human beings for treating human remains with respect and dignity, as determined by the commission.

(d) Plans required under this chapter must be submitted to the division for approval according to rules adopted by the commission.

Sec. 22. (a) Notwithstanding IC 23-14-44-1, this section does not apply to the following:

(1) A public utility (as defined in IC 8-1-2-1(a)).

(2) A corporation organized under IC 8-1-13.

(3) A municipally owned utility (as defined in IC 8-1-2-1(h)).

(4) A surface coal mining and reclamation operation permitted under IC 14-34.

(b) A person may not disturb the ground for the purpose of discovering artifacts or burial objects:

(1) without having an archeological plan approved by the division under section 21 of this chapter (or the department of natural resources under prior law); or

(2) in violation of an archeological plan approved by the division under section 21 of this chapter (or the department of natural resources under prior law).

(c) Except as provided in this subsection, subsection (d), and subsection (e), a person may not disturb the ground within one



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hundred (100) feet of a burial ground or cemetery to erect, alter, or repair any structure:

(1) without having a development plan approved by the division under section 21 of this chapter (or the department of natural resources under prior law); or

(2) in violation of a development plan approved by the division under section 21 of this chapter (or the department of natural resources under prior law).

(d) A person must submit and have a development plan approved by the division if a person intends to construct a new structure or alter or repair an existing structure that would significantly affect the burial ground or cemetery. The division must review the development plan not later than sixty (60) days after the development plan is submitted. However, a development plan is not required if a person intends only to erect, alter, or repair an existing structure for an incidental or existing use that would not affect the burial ground or cemetery.

(e) A development plan for a governmental entity to disturb ground within one hundred (100) feet of a burial ground or cemetery must be approved as follows:

(1) A development plan of a municipality requires approval of the executive of the municipality and does not require the approval of the division. However, if the burial ground or cemetery is located outside the municipality, approval also is required by the executive of the county where the burial ground or cemetery is located. A county cemetery commission established under IC 23-14-67-2 may advise the executive of the municipality on whether to approve a development plan.

(2) A development plan of a governmental entity other than:

(A) a municipality; or

(B) the state;

requires the approval of the executive of the county where the governmental entity is located and does not require the approval of the division. However, if the governmental entity is located in more than one (1) county, only the approval of the executive of the county where the burial ground or cemetery is located is required. A county cemetery commission established under IC 23-14-67-2 may advise the county executive on whether to approve a development plan.

(3) A development plan of the state requires the approval of the division.

(f) A person who recklessly, knowingly, or intentionally violates

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1 this section commits a Class A misdemeanor. However, the offense
 2 is a Class D felony if the person disturbs buried human remains or
 3 grave markers while committing the offense.

4 **Sec. 23. (a) A person who disturbs buried human remains shall**
 5 **do the following:**

6 (1) Notify the division not later than two (2) business days
 7 after the time of the disturbance.

8 (2) Treat or rebury the human remains in a manner and place
 9 according to rules adopted by the commission or a court
 10 order and permit issued by the state department of health
 11 under IC 23-14-57.

12 (b) A person who recklessly, knowingly, or intentionally violates
 13 this section commits a Class A misdemeanor.

14 **Sec. 24. Except as provided in sections 21 through 23 and section**
 15 **31 of this chapter, a person who knowingly, without a permit,**
 16 **conducts a field investigation or alters historic property within the**
 17 **boundaries of property owned or leased by the state commits a**
 18 **Class A misdemeanor.**

19 **Sec. 25. A person who, with the intent to disturb ground to**
 20 **discover or remove artifacts, burial objects, grave markers, or**
 21 **human remains, disturbs buried human remains or grave markers**
 22 **either:**

23 (1) without a plan approved by:

24 (A) the division under section 21 of this chapter; or

25 (B) the department of natural resources under
 26 IC 14-21-1-25 (before its repeal) or IC 14-3-3.4-14 (before
 27 its repeal); or

28 (2) in violation of a plan described in subdivision (1);
 29 commits a Class D felony.

30 **Sec. 26. (a) A person who discovers an artifact or burial object**
 31 **while disturbing the ground for a purpose other than the discovery**
 32 **of artifacts or burial objects shall do the following:**

33 (1) Immediately cease disturbing the ground.

34 (2) Notify the division not later than two (2) business days
 35 after the time of the disturbance.

36 (b) After notification under subsection (a), the division may do
 37 any of the following:

38 (1) Authorize the person to continue the ground disturbing
 39 activity, with or without conditions.

40 (2) Require that continued ground disturbance activity be
 41 conducted only in accordance with an approved plan.
 42 However, this subdivision does not apply after thirty (30) days

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from the date that the division receives notice.

Sec. 27. The division shall actively encourage all groups of amateur archeologists to establish and maintain a code of ethics as a minimum guide for the conduct of searches for evidence of life and culture of past ages.

Sec. 28. (a) The commission shall adopt rules under IC 4-22-2 to implement sections 21 through 27 of this chapter.

(b) When adopting rules under this section, the commission shall consider the following:

(1) The rights and interests of landowners.

(2) The sensitivity of human beings for treating human remains with respect and dignity.

(3) The value of history and archeology as a guide to human activity.

(4) The importance of amateur archeologists in making historical, cultural, and archeological discoveries.

(5) The applicable laws, standards, and guidelines for the conduct of archeology and the codes of ethics for participation in archeology.

Sec. 29. (a) Any person may nominate a site or structure for addition to or removal from the state register. Upon approval of the nomination by the division, all affected persons shall be notified.

(b) If an objection to the action is not filed with the division within thirty (30) days after the notification date, the nomination is automatically approved.

(c) If an objection is received within thirty (30) days after the notification date, a designated member of the review board shall hold a hearing and make a determination. The review board shall make the final decision regarding a nomination, subject to administrative review by the commission under IC 4-21.5.

Sec. 30. (a) This section does not apply to real property that is owned by a state educational institution (as defined in IC 20-12-0.5-1).

(b) The division periodically shall conduct a survey using the most current standard procedures for the survey of historic property. The survey must include:

(1) a determination of the existence, location, and description of each historic property owned by the state;

(2) the identification of the state agency that is responsible for managing, operating, or administering the historic property; and



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(3) the assignment of a historic rating to each historic structure on historic property owned by the state using the most current standard procedures for the assignment of these ratings.

(c) Each state agency that is identified in the survey conducted under subsection (b) shall designate a historic preservation liaison officer to be responsible for:

(1) communications between the state agency and the division or other historic preservation organizations;

(2) notifying the division if the state agency receives approval from the budget committee to alter, demolish, or remove a historic site or historic structure owned by the state; and

(3) attending any educational programs that may be conducted by the division to inform state agencies and their liaison officers of their responsibilities under this section.

(d) The Indiana department of administration shall notify the division of a proposed transfer of real property owned by the state at the earliest planning stage and not later than ninety (90) days before the date of the proposed transfer.

(e) The division shall inspect the property and notify the Indiana department of administration of the location of each historic site or historic structure on the property.

(f) Real property owned by the state may not be sold or transferred until the division has stated in writing that the property does not, to the best of the division's knowledge, contain a historic site or historic structure.

(g) If the Indiana department of administration receives notice of a historic site or historic structure on the property, the Indiana department of administration shall reserve control of the appropriate historic property by means of a covenant or an easement contained in the transferring instrument.

(h) The history division of the department of Indiana heritage shall administer property subject to deed restrictions under subsection (g).

Sec. 31. (a) A:

(1) historic site or historic structure owned by the state; or

(2) historic site or historic structure listed on the state or national register;

may not be altered, demolished, or removed by a project funded, in whole or in part, by the state unless the review board has granted a certificate of approval.

(b) Notwithstanding subsection (a), if the division finds that an

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1 emergency exists in order to protect historic property that has been
 2 damaged by fire or a natural disaster in the interim between
 3 meetings of the review board, the division may approve routine
 4 maintenance, rebuilding, or reconstruction of the historic property
 5 without requiring a certificate of approval from the review board.

6 (c) An application for a certificate of approval:

7 (1) must be filed with the division not less than thirty (30)
 8 days before the meeting of the review board at which the
 9 application will be considered; and

10 (2) shall be granted or rejected by the review board after a
 11 public hearing.

12 (d) The review board may not grant a certificate of approval for
 13 demolition of a historic site or historic structure owned by the state
 14 unless it finds that the head of the state agency that wants to
 15 demolish the historic site or historic structure has first attempted
 16 to dispose of the property in accordance with IC 4-20.5-7 but has
 17 been unable to obtain the governor's approval to transfer the
 18 property under IC 4-20.5-7-2.

19 Sec. 32. (a) Section 31 of this chapter does not apply to real
 20 property that is owned by a state educational institution (as defined
 21 in IC 20-12-0.5-1).

22 (b) The commission for higher education and each state
 23 educational institution, in cooperation with the division, shall
 24 develop and continuously maintain a survey of historic sites and
 25 historic structures owned by the state educational institution.
 26 Historic sites and historic structures include buildings, structures,
 27 outdoor sculptures, designed landscapes, gardens, archeological
 28 sites, cemeteries, campus plans, and historic districts. A survey
 29 developed under this subsection must conform with the Indiana
 30 Historic Sites and Structures Survey Manual.

31 (c) The state historic preservation officer, not later than one (1)
 32 year after receipt of a ten (10) year capital plan under subsection
 33 (f) (or IC 14-21-1-18.5 before its repeal), shall:

34 (1) review a proposed state college or university project that
 35 involves a historic site or historic structure owned by a state
 36 educational institution; and

37 (2) submit an advisory report to the commission for higher
 38 education, the state educational institution, and the general
 39 assembly.

40 (d) Not more than thirty (30) days after a state college or
 41 university, under section 33 of this chapter (or under
 42 IC 14-21-1-18.6 before its repeal), submits to the division a

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description of a proposed project that involves the substantial alteration, demolition, or removal of a historic site or historic structure, the state historic preservation officer shall:

- (1) review the description of the proposed project; and
- (2) submit to the state college or university an advisory report concerning the proposed project.

(e) The state college or university shall review and consider the advisory report before proceeding with the substantial alteration, demolition, or removal of a historic site or historic structure.

(f) When submitting its biennial budget request, a state college or university must:

- (1) submit to the division a copy of any ten (10) year capital plan of the college or university that is required by the budget agency or the commission for higher education; and
- (2) identify the projects included in the capital plan that may involve the alteration or demolition of historic sites or historic structures.

Sec. 33. (a) As used in this section, "substantial alteration" means a conspicuous, exterior material change in a historic site or historic structure that, in the good faith judgment of a state college or university, affects the historic character of the historic site or historic structure.

(b) If a proposed project of a state college or university:

- (1) involves the substantial alteration, demolition, or removal of a historic site or historic structure; and
- (2) is not identified in a capital plan submitted to the division under section 32 of this chapter (or IC 14-21-1-18.5 before its repeal);

the state college or university shall submit a description of the proposed project to the division and publish a notice describing the project one (1) time in a newspaper of general circulation in the county in which the proposed project is located. The submission of the description and the publication of the notice must occur at least thirty (30) days before the commencement of the proposed project.

Sec. 34. (a) As used in this section, "interested party" means any of the following:

- (1) The executive of the:
 - (A) city or town in which the subject property is located; or
 - (B) county in which the subject property is located, if the subject property is located in an unincorporated area.
- (2) A historic preservation commission having jurisdiction

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over one (1) or more historic districts in the county in which the subject property is located.

(3) The owner of a historic property located not less than two thousand six hundred forty (2,640) feet from the subject property.

(4) An association, whether incorporated or unincorporated, that has as a purpose the preservation of historic, archeological, or cultural resources and that has not fewer than ten (10) members who are residents of the county in which the subject property is located.

(b) As used in this section, "proceeding" has the meaning set forth in IC 4-21.5-1-13.

(c) As used in this section, "state action" includes:

(1) comment, review, advice, consideration, approval, issuance, denial, or other action by the commission, the commissioner, the division, or the review board of a plan, permit, rule, nomination, certificate of approval, or determination; and

(2) the exercise of or the failure to perform a duty imposed on the commission, the commissioner, the division, or the review board by law or rule.

(d) As used in this section, "subject property" means a historic property or a contributing property that is the subject of a requested, required, authorized, or pending state action.

(e) An interested party may initiate and, with respect to a pending proceeding, has standing to participate in a proceeding by the commission, the commissioner, the division, or the review board that involves, may involve, or could involve state action concerning a subject property.

(f) An interested party has standing to obtain judicial review under IC 4-21.5-5 of a state action concerning a subject property.

(g) The commission, the commissioner, the division, and the review board may not take a state action concerning a subject property if the state action would result in a material adverse effect on a historic property or a contributing property. The division shall make the initial determination of the presence or absence of a material adverse effect, subject to review and final determination by the review board at the request of:

- (1) a person with a property interest in the subject property;
- or
- (2) an interested party.

Sec. 35. (a) The historic preservation review board is

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1 established.

2 (b) The review board consists of at least nine (9) members as
3 follows:

4 (1) The commissioner.

5 (2) At least five (5) individuals meeting the minimum
6 professional requirements established by the United States
7 Secretary of the Interior under the National Historic
8 Preservation Act and in effect on January 1, 2003.

9 (3) Three (3) professionals, one (1) from each of the following
10 disciplines:

11 (A) History.

12 (B) Prehistoric or historic archeology.

13 (C) Architecture or historical architecture.

14 (c) The commissioner, with the concurrence of the governor,
15 shall appoint the members of the review board under subsection
16 (b)(2) and (b)(3) for terms of three (3) years. The terms shall be
17 staggered so that the terms of at least three (3) members expire
18 each year. A member may be reappointed.

19 Sec. 36. (a) The commissioner is chairperson of the review
20 board. The review board may select other officers that the review
21 board determines necessary.

22 (b) The director of the division is a nonvoting adviser to the
23 review board and is entitled to attend and participate in all
24 meetings of the review board.

25 (c) The director may appear before the review board at any
26 public hearing and present evidence in support of or in opposition
27 to the granting of an application for a certificate of approval or
28 any other matter. Other persons may appear and present relevant
29 evidence, but a person may not communicate with any member of
30 the review board before a public hearing with intent to influence
31 the member's action on a matter pending before the review board.
32 Not less than five (5) days before a public hearing, however, the
33 director may file with the review board a written statement setting
34 forth any facts or opinions relating to the matter to be heard.

35 Sec. 37. (a) The commissioner and the review board shall carry
36 out the duties imposed by this chapter in a manner that is
37 consistent with the National Historic Preservation Act (16 U.S.C.
38 470 et seq.), as in effect on January 1, 2003, and the regulations
39 promulgated by the United States Secretary of the Interior under
40 that Act and in effect on January 1, 2003.

41 (b) The review board also shall advise the division and the
42 department as requested by the commissioner.



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1 Sec. 38. (a) Each member of the review board who is not a state
2 employee is entitled to the minimum salary per diem as provided
3 under IC 4-10-11-2.1 (b) for each day that the member is engaged
4 in the official business of the committee. The member is also
5 entitled to reimbursement for traveling expenses as provided under
6 IC 4-13-1-4 and other expenses actually incurred in connection
7 with the member's duties as provided in the state policies and
8 procedures established by the Indiana department of
9 administration and approved by the budget agency.

10 (b) Each member of the review board who is a state employee
11 is entitled to reimbursement for traveling expenses as provided
12 under IC 4-13-1-4 and other expenses actually incurred in
13 connection with the member's duties as provided in the state
14 policies and procedures established by the Indiana department of
15 administration and approved by the budget agency.

16 Sec. 39. (a) The historic preservation review board established
17 by this chapter is a continuation of the historic preservation review
18 board established by IC 14-21-1 (before its repeal).

19 (b) After July 1, 2003, a reference to the historic preservation
20 review board in a statute or law shall be treated as a reference to
21 the historic preservation review board established by this chapter.

22 (c) After July 1, 2003, the register of Indiana historic sites and
23 structures maintained by the historic preservation review board
24 under IC 14-21-1-15 (before its repeal) shall be maintained by the
25 historic preservation review board under this chapter.

26 (d) A certificate of approval granted by the historic preservation
27 review board under IC 14-21-1-18 (before its repeal) shall be
28 treated after June 30, 2003, as a certificate of approval granted by
29 the historic preservation review board under this chapter.

30 (e) A preservation plan for the state adopted by the historic
31 preservation review board under IC 14-21-1-12 (before its repeal)
32 shall be treated after June 30, 2003, as a plan adopted by the
33 historic preservation review board under section 15(2) of this
34 chapter.

35 Chapter 6. History Division

36 Sec. 1. As used in this chapter, "division" refers to the history
37 division established by section 2 of this chapter.

38 Sec. 2. The history division is established as a division within the
39 department of Indiana heritage.

40 Sec. 3. (a) The commissioner shall appoint a director to be the
41 chief administrative officer of the division.

42 (b) The director must have:

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- (1) a graduate degree in history or a closely related field; and
- (2) at least three (3) years of professional experience in history or closely related fields.

(c) The director may be removed by the commissioner at any time.

Sec. 4. The division shall be organized in a manner determined by the director of the division with the approval of the commissioner. The duties of the division established by law may be supplemented by the commissioner.

Sec. 5. The division shall administer and develop the programs and policies established by this chapter.

Sec. 6. The division shall do the following:

- (1) Establish standards and criteria for the acquisition of historic properties and for the preservation, restoration, administration, and operation of the sites and structures acquired.
- (2) Acquire by purchase, lease, or gift appropriate historic sites and historic structures.
- (3) Operate and administer those historic sites and historic structures owned or acquired by the state in accordance with this chapter.
- (4) Edit and publish documentary and other material relating to the history of the state of Indiana and promote the study of Indiana history.
- (5) As appropriate, work with the Indiana historical society, the county historical societies, and any other person, agency, or organization concerned with Indiana history.
- (6) Operate the historical marker program.
- (7) Provide custody, care, and maintenance of the governor portraits collection.

Sec. 7. The division may do the following:

- (1) Undertake the action necessary to qualify the state for participation in sources of federal aid to preserve historic property, materials, items, sites, and memorials.
- (2) Compile and publish digests, reports, and bulletins of a purely informational or statistical character on any question the commissioner considers to be of interest or value to the people of the state.
- (3) Cooperate with any of the educational institutions of the state or with other institutions, organizations, or individuals to meet its responsibilities in any manner and to any extent approved by the review board.

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(4) Provide information on historic property, materials, items, sites, and memorials within Indiana to federal, state, and local governmental agencies, private individuals, and organizations.

(5) Advise and coordinate the activities of local historical associations, historic commissions, and other interested groups or persons.

(6) Provide technical and financial assistance to local historical associations, historic commissions, and other interested groups or persons.

(7) Collect and preserve objects of scientific and cultural value representing past and present flora and fauna, the life and work of man, geological history, natural resources, the manufacturing arts, and fine arts.

Sec. 8. (a) The division may convey or lease property acquired under this chapter:

(1) back to the original owner of the property; or

(2) to any other person under a contractual arrangement that will limit the future use of the property and ensure the preservation of the property.

(b) A historic property that is:

(1) conveyed under this section; or

(2) leased under this chapter;

is subject to rights of access, public visitation, and other conditions of operation established by the division.

Sec. 9. (a) The division may negotiate and execute a lease of historic property under this section to:

(1) a political subdivision;

(2) a state agency;

(3) a for profit or nonprofit organization; or

(4) any other person;

if the division determines that the lease is in the best interests of the citizens of Indiana.

(b) A lease of historic property executed under this section must set forth the following:

(1) A description of the property subject to the lease.

(2) The term of the lease.

(3) A requirement that complete plans and specifications be submitted to the division for review and written approval before any construction begins on the property.

(4) Terms of the payment of rent for the property.

(5) A requirement that facilities on the property be available

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to the public without discrimination.

(6) Terms of the disposition of:

(A) the property; and

(B) improvements on the property;

at the termination of the lease.

(c) This section does not require that the property subject to a lease be surveyed.

(d) The term of a lease executed under this section may not exceed twenty-five (25) years. However, the lease may provide for the renewal of the lease at the option of the parties for one (1) or two (2) periods. A renewal period may not exceed ten (10) years.

Sec. 10. (a) This section applies to the negotiation and execution of a lease of historical property on which the division desires certain facilities to be provided. However, this section does not apply to a lease of historic property to:

(1) a political subdivision; or

(2) a state agency.

(b) The division shall prepare and publicize through appropriate media a statement of intent that does the following:

(1) Describes the facilities that the division desires to be provided on the historic property.

(2) Sets forth a procedure for the submission of proposals by persons proposing to lease the historic property and provide the facilities.

(c) A statement of intent prepared under subsection (b) must appear in at least three (3) legal advertisements at ten (10) day intervals in at least five (5) daily newspapers of wide and general circulation in Indiana.

(d) During the sixty (60) days following the publication of the final legal advertisement under subsection (c), proposals may be submitted to the division in response to the statement of intent. The division shall do the following:

(1) Select from the proposals submitted the one (1) proposal that the division considers most appropriate for the fulfillment of the statement of intent.

(2) Submit the proposal to the commissioner and the commission for approval.

(e) If the proposal is approved in writing by the commissioner and the commission, the division may negotiate a lease agreement with the party that submitted the proposal. After a lease agreement is entered into and set forth in writing, the division shall submit the lease agreement to the attorney general for review. A lease

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agreement that is:

- (1) negotiated;
- (2) executed by the authorized agents of the state and the lessee; and
- (3) approved by the attorney general;

under this section is a binding contract between the state and the lessee.

Sec. 11. The commission may adopt rules under IC 4-22-2 to implement sections 8 through 10 of this chapter.

Sec. 12. (a) The division may accept gifts, bequests, and devises of personal and real property for the maintenance, use, or benefit of the division under such terms and conditions and with the obligations, liabilities, and burdens that the director and the commissioner believe are in the best interest of the division.

(b) The division shall not assume any obligation, liability, or burden that exceeds appropriations made by law for the payment of such obligations, liabilities, and burdens.

Sec. 13. (a) The historic sites fund is established as a dedicated fund to be administered by the division. Money in the fund may be expended by the director exclusively for the maintenance, use, or benefit of historic sites operated or administered by the division.

(b) The fund consists of the following:

- (1) The proceeds from the sale of items as directed by law or by the director.
- (2) Gifts of money and the proceeds from the sale of gifts donated to the fund.
- (3) Investment earnings from any part of the fund.

(c) Money accruing in the fund is appropriated continuously for purposes specified in subsection (a).

(d) Money remaining in the fund does not revert to the state general fund at the end of a state fiscal year. However, if the fund is abolished, its contents revert to the state general fund.

Sec. 14. Each state, county, township, city, town, judicial officer, or other public officer who has custody of, is capable of supplying, or is required to collect and compile information that may be required by the division shall supply the information promptly at the request of the division, whether the request is:

- (1) oral;
- (2) by letter or circular; or
- (3) by forms provided to the officer to complete.

Sec. 15. (a) The history division established within the department of Indiana heritage is a continuation of:

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(1) the Indiana historical bureau established under IC 4-23-7.2 (before its repeal) as a division of the Indiana library and historical department; and

(2) the section of historic sites established under IC 14-20-1-8 (before its repeal) as a section of the division of state museums and historic sites of the department of natural resources.

(b) Any authority that the Indiana library and historical board had (before it was abolished under IC 4-23-7-1.5) to make rules concerning the Indiana historical bureau (before its repeal) is transferred to the Indiana heritage commission. Any rules of the Indiana library and historical board that:

(1) concern the Indiana historical bureau; and

(2) were filed with the secretary of state before July 1, 2003; shall be treated after June 30, 2003, as though they had been adopted by the Indiana heritage commission.

(c) The rules adopted by the natural resources commission concerning the section of historic sites of the division of state museums and historic sites of the department of natural resources shall be treated, after June 30, 2003, as rules of the Indiana heritage commission.

(d) On July 1, 2003, all powers, duties, assets, and liabilities of:

(1) the Indiana historical bureau established under IC 4-23-7.2 (before its repeal); and

(2) the section of historic sites of the division of state museums and historic sites of the department of natural resources;

are transferred to the history division of the department of Indiana heritage established by this article as the successor agency.

(e) On July 1, 2003, all powers, duties, assets, and liabilities of the department of natural resources that are attributable to the section of historic sites of the division of state museums and historic sites are transferred to the department of Indiana heritage.

(f) On July 1, 2003, all powers, duties, assets, and liabilities of the:

(1) Indiana library and historical board; and

(2) Indiana library and historical department;

that are attributable to the Indiana historical bureau are transferred to the department of Indiana heritage.

(g) After July 1, 2003, any reference to:

(1) the department of natural resources in a statute or rule concerning the section of historic sites of the division of state museums and historic sites shall be treated as a reference to the department of Indiana heritage;

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(2) the section of historic sites in a statute or rule concerning the division of state museums and historic sites shall be treated as a reference to the history division;

(3) the director of the department of natural resources in a statute or rule concerning the section of historic sites of the division of state museums and historic sites shall be treated as a reference to the commissioner of the department of Indiana heritage;

(4) the Indiana historical bureau in a statute or rule concerning the bureau shall be treated as a reference to the history division;

(5) the Indiana library and historical board in a statute or rule concerning the Indiana historical bureau shall be treated as a reference to the department of Indiana heritage; and

(6) the Indiana library and historical department in a statute or rule concerning the Indiana historical bureau shall be treated as a reference to the history division.

Sec. 16. All expenses incurred in the preparation, compilation, printing, binding, and publication of the volumes of source and other historical material issued by the division shall be defrayed from funds of the department or the division that are appropriated by law for that purpose.

Sec. 17. Historical publications issued by the division shall be printed by the public records division under the terms of a contract that the state executes and enters into for public printing and under the direction and supervision of the division.

Sec. 18. The division shall furnish one (1) copy of each publication it issues to each public library in Indiana. With the approval of the director, the division may furnish free copies to certain other persons, institutions, or departments. The division shall make remaining copies available for sale to the public at a price that shall be fixed by the director.

Sec. 19. (a) The historical publications and educational fund is established as a dedicated fund to be administered by the division. Money in the fund may be expended by the director of the division exclusively for the publication of:

(1) historical documents; and

(2) other material to:

(A) promote the study of Indiana history; and

(B) inform the people of Indiana concerning the history of their state.

(b) The fund consists of the following items, which shall be

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deposited in the fund:

(1) Proceeds from the sale of:

(A) publications of the select committee on the centennial history of the Indiana general assembly; and

(B) other items as directed by law or by the director of the division.

(2) Gifts of money and the proceeds from the sale of gifts donated to the fund.

(3) Investment earnings from any part of the fund.

(c) Money accruing to the historical publications and educational fund is appropriated continuously for purposes specified in this section.

(d) Money remaining in the fund does not revert to the state general fund at the end of a state fiscal year. However, if the fund is abolished, its contents revert to the state general fund.

Sec. 20. The division shall establish the Indiana historical marker program for marking historical sites in Indiana.

Sec. 21. (a) The division shall fix a state format for historical markers. The state format selected under this section may be the same as the state format established by the historical bureau under IC 4-23-7.2-11 (a) (before its repeal).

(b) Except as provided in section 25 of this chapter, a person may not erect a historical marker in the state format without the approval of the division.

(c) All historical markers in the state format shall be provided by the division (or by the historical bureau under IC 4-23-7.2-11 (a) before its repeal) using appropriated funds, local matching funds, donations, grants, or any other funds provided for that purpose according to the guidelines and rules of the historical marker program.

Sec. 22. The commissioner may appoint a historical marker advisory committee to serve without compensation. The committee may advise the director concerning the following:

(1) Guidelines and rules for the historical marker program.

(2) Appropriate sites to be marked.

(3) Other matters concerning the historical marker program as requested by the director.

Sec. 23. Historical markers approved under this section become the property of the state. Maintenance of state historical markers is part of the historical marker program. The division may cooperate with individuals, local and state agencies, and private institutions and organizations for the maintenance of the historical

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1 markers. Funds made available to the historical marker program,
 2 as approved by the director, may be used for necessary
 3 maintenance.

4 Sec. 24. Except as provided in section 25 of this chapter, a
 5 historical marker may not be erected on a highway of the state
 6 highway system without the approval of the division as to the
 7 geographical and historical accuracy of the marker. This provision
 8 is in addition to any other requirement of law.

9 Sec. 25. Approval from the division is not required for historical
 10 markers approved by the historical bureau under IC 4-23-7.2-11
 11 (before its repeal).

12 Sec. 26. The governor portraits collection is placed in the
 13 custody of the division. The collection shall be permanently
 14 displayed in public areas of the state capitol building under the
 15 supervision of the division, which is charged with the care and
 16 maintenance of the collection.

17 Sec. 27. The director shall inspect each painting in the collection
 18 annually in the company of one (1) or more experts in the field of
 19 art conservation selected by the director.

20 Sec. 28. After the inauguration of each governor, the director,
 21 with the concurrence of the governor and the commissioner, shall
 22 select and commission an artist to paint the governor's portrait.
 23 The portrait must be hung in the permanent collection immediately
 24 following the completion and acceptance of the portrait by the
 25 director and the governor.

26 Sec. 29. The division shall include in its budget requests for
 27 amounts it considers necessary to provide for the proper care,
 28 maintenance, and display of the governor portraits collection and
 29 amounts necessary for commissioning an oil portrait of each
 30 governor. The division may use appropriated funds or any other
 31 funds provided for these purposes.

32 Sec. 30. The director, in discharging the duties under this
 33 chapter, shall use the appropriate cultural and technical resources
 34 of the state, including the other divisions of the department and the
 35 Indiana department of administration.

36 Sec. 31. (a) The governor portraits fund is established as a
 37 dedicated fund to be administered by the division. Money in the
 38 fund may be expended by the director of the division exclusively
 39 for the preservation and exhibition of the state owned portraits of
 40 former governors of Indiana.

41 (b) The governor portraits fund consists of the following items,
 42 which shall be deposited in the fund:



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(1) Proceeds from the sale of items as directed by law or by the director of the division.

(2) Gifts of money and the proceeds from the sale of gifts donated to the fund.

(3) Investment earnings from any part of the fund.

(c) Money accruing to the governor portraits fund is appropriated continuously for purposes specified in this section.

(d) Money remaining in the fund does not revert to the state general fund at the end of a state fiscal year. However, if the fund is abolished, its contents revert to the state general fund.

Sec. 32. The division shall have custody of all unsold commemorative medallions and other items that were acquired for sale to the public by the Indiana historical commission, the Indiana sesquicentennial commission, or the Indiana American revolution bicentennial commission when that commission is abolished. These medallions and other commemorative items shall be offered for sale to the public at a price determined by the director of the division. The proceeds from the sale of the items shall be deposited in the governor portraits fund.

Sec. 33. The division shall celebrate the memory of George Rogers Clark in a manner fitting each occasion of George Rogers Clark Day, every twenty-fifth day of February, established by IC 1-1-13-1.

SECTION 2. IC 4-23-7-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. (a) There is hereby created ~~and established a department of the state government which shall be known as within the department of Indiana heritage established by IC 4-35-2-1 the Indiana state library and historical department division.~~

(b) As used in this chapter, "commissioner" refers to the commissioner of the department of Indiana heritage appointed under IC 4-35-3-2.

(c) As used in this chapter, "director" refers to the director of the Indiana state library division, who is the director of the Indiana state library appointed under IC 4-23-7.1-37.

(d) As used in this chapter, "division" refers to the Indiana state library division created by this section.

SECTION 3. IC 4-23-7-1.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1.5. (a) On July 1, 2003, the Indiana library and historical board is abolished and ceases to exist.

(b) Except as provided in IC 4-35-6-15, the Indiana library and

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historical board's rulemaking authority is transferred to the Indiana state library division of the department of Indiana heritage.

(c) Except as provided in IC 4-35-6-15, rules of the Indiana library and historical board that were filed with the secretary of state before July 1, 2003, shall be treated after June 30, 2003, as though they had been adopted by the Indiana state library division.

(d) Except as provided in IC 4-35-6-15, on July 1, 2003, all powers, duties, assets, and liabilities of the:

(1) Indiana library and historical board; and

(2) Indiana library and historical department;

are transferred to the Indiana state library division of the department of Indiana heritage.

(e) Except as provided in IC 4-35-6-15, after July 1, 2003, reference in a statute or rule to:

(1) the Indiana library and historical board; or

(2) the Indiana library and historical department;

shall be treated as a reference to the Indiana state library division of the department of Indiana heritage.

SECTION 4. IC 4-23-7-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. The management and control of the Indiana library and historical department is hereby vested in a board which shall be known as the Indiana library and historical board; and which shall consist of five (5) members; who shall be appointed by the governor, as hereinafter provided: In the first instance, one (1) of such members shall be appointed for a term of one (1) year; one (1) member for a term of two (2) years; one (1) member for a term of three (3) years; and two (2) members for a term of four (4) years. Thereafter all members shall be appointed for terms of four (4) years. No person shall be appointed as a member of the Indiana library and historical board unless he is a citizen of high standing and probity and has a known and active interest in library or historical work. One (1) member of the library and historical board shall be appointed on recommendation of the state board of education; one (1) member shall be appointed on recommendation of the Indiana library; trustee association; one (1) member shall be appointed on recommendation of the Indiana library association; one (1) member shall be appointed on recommendation of the Indiana historical society; and one (1) member shall be selected and appointed by the governor. The members of the board shall serve without compensation; but shall be entitled to receive their actual expenses necessarily incurred in attending the meetings and transacting the business of the board; and in participating in such other



activities as may be in the interest of the department. Any vacancy which may occur in the membership of the board for any cause shall be filled by appointment by the governor for the unexpired term, either on recommendation of the board, association or society hereinbefore authorized to make recommendations; or by selection by the governor, as hereinbefore provided. The **board division** may prepare plans subject to the approval of the **governor commissioner** and advise with the proper officials in the construction of alterations and additions to the building and provide necessary equipment and furnishings within the appropriations of funds for these purposes. The **board division** may receive and administer any state or federal aid which may become available for the improvement and development of library and historical services in Indiana.

SECTION 5. IC 4-23-7-5.2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5.2. The **Indiana library and historical board division** may accept gifts, bequests, and devises of personal and real property for the maintenance, use, or benefit of the **Indiana library and historical department division** under such terms and conditions and with such obligations, liabilities, and burdens as in the judgment of the **board director** and the **governor is commissioner are** in the best interest of the **Indiana library and historical department; division**. However, no obligation, liability, or burden shall be assumed that is in excess of appropriations made by law for the payment of such obligations, liabilities, and burdens.

SECTION 6. IC 4-23-7-5.4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5.4. (a) The **Indiana state library and historical department** fund is established as a dedicated fund to be administered by the **Indiana library and historical board; The monies division. Money** in the fund may be expended by the **board division** exclusively for the maintenance, use, or benefit of the **Indiana library and historical department; division**.

(b) The proceeds from the sale of items as directed by law or by the **Indiana library and historical board; division**, from gifts of money or the proceeds from the sale of gifts donated to the fund, and from investment earnings from any portion of the fund shall be deposited in the fund.

(c) ~~All monies~~ **Money** accruing in the fund ~~are hereby~~ **is** appropriated continuously for the purposes specified in this section.

(d) No portion of the fund shall revert to the general fund of the state at the end of a fiscal year; however, if the fund is abolished, its contents shall revert to the general fund of the state.

SECTION 7. IC 4-23-7.1-1 IS AMENDED TO READ AS



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FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. As used in this chapter:

(1) "Advisory council" refers to the Indiana state library advisory council established by section 39 of this chapter.

(2) "Agency" means any state administration, agency, authority, board, bureau, commission, committee, council, department, division, institution, office, service, or other similar body of state government.

~~(3) "Board" means the Indiana library and historical board established by IC 4-23-7-2.~~

~~(4) "Department" means the Indiana library and historical department established by IC 4-23-7-1.~~

~~(5)~~ **(3) "Commissioner" refers to the commissioner of the department of Indiana heritage appointed under IC 4-35-3-2.**

~~(4)~~ **"Director" means director of the Indiana state library and the Indiana state library division.**

~~(6) "Historical bureau" means the Indiana historical bureau established by IC 4-23-7-3.~~

~~(5)~~ **"Division" refers to the Indiana state library division created by IC 4-23-7-1.**

~~(7)~~ **(6) "Public library" has the meaning set forth in IC 20-14-1-2.**

~~(8)~~ **(7) "State library" means the Indiana state library established by IC 4-23-7-3: section 2 of this chapter.**

~~(9)~~ **(8) "Statewide library card program" refers to the program established by section 5.1 of this chapter.**

SECTION 8. IC 4-23-7.1-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. **(a) The Indiana state library is established. The library is operated by the Indiana state library division created by IC 4-23-7-1. The director of the Indiana state library is the director of the Indiana state library division.**

(b) The state library is responsible for executing the policy of the state of Indiana:

(1) to develop and provide library service to state government, its branches, its departments and its officials and employees;

(2) to provide for the individual citizens of the state those specialized library services not generally appropriate, economical or available in other libraries of the state;

(3) to encourage and support the development of the library profession; and

(4) to strengthen services of all types of publicly and privately supported special, school, academic, and public libraries.



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1 SECTION 9. IC 4-23-7.1-4 IS AMENDED TO READ AS
 2 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. The state library
 3 shall initiate or participate in plans or programs for ~~historical or~~ library
 4 development in Indiana that are considered appropriate by the ~~Indiana~~
 5 ~~library and historical board~~ **director and commissioner, with the**
 6 **advice of the advisory council.**

7 SECTION 10. IC 4-23-7.1-21 IS AMENDED TO READ AS
 8 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 21. The ~~board~~ **Indiana**
 9 **heritage commission** shall determine the days and hours the library
 10 and its subdivisions will be open for public use; however, the
 11 provisions of the laws governing the length of the working day, the
 12 hours of public business, and the observance of legal holidays shall be
 13 observed.

14 SECTION 11. IC 4-23-7.1-29 IS AMENDED TO READ AS
 15 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 29. (a) The Indiana
 16 state library shall distribute to each eligible public library district the
 17 amount the district is entitled to under this section not later than August
 18 1 of each year. The ~~board~~ **Indiana heritage commission** shall
 19 determine each district's distribution, which may be based on:

- 20 (1) the population served by each eligible public library district;
- 21 (2) the level of services offered; and
- 22 (3) the loans made by the public library district to others outside
- 23 the public library's taxing district.

24 (b) To be eligible for payment under this section, a public library
 25 district shall:

- 26 (1) comply with the standards and rules established under section
- 27 11 of this chapter;
- 28 (2) comply with IC 20-14; and
- 29 (3) submit an application on a form prescribed by the Indiana
- 30 state library, including a summary of loan data for the previous
- 31 year, to the Indiana state library no later than May 1 of each year.

32 (c) Any expenses incurred by the Indiana state library in the
 33 administration and distribution of funds under this section may not be
 34 charged against funds appropriated for the purposes of this section.

35 (d) The governing body of a public library district which receives
 36 funds under this section may appropriate the funds for library materials
 37 or expenses associated with the sharing of resources.

38 SECTION 12. IC 4-23-7.1-36 IS AMENDED TO READ AS
 39 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 36. The state library
 40 shall be organized in such manner as determined by the director with
 41 the approval of the ~~board~~ **commissioner**. The duties of the state library
 42 established by law may be supplemented by the ~~board~~ **commissioner**



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1 according to ~~its~~ **the commissioner's** discretion.

2 SECTION 13. IC 4-23-7.1-37 IS AMENDED TO READ AS
3 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 37. (a) The ~~board~~
4 **commissioner** shall appoint a director to be the chief administrative
5 officer of the state library **and of the division**.

6 (b) To qualify for the position of director, a person must:

7 (1) ~~be have~~ a graduate of a college or university of recognized
8 ~~standing; degree in library science or management;~~

9 (2) have ~~had special training in the technique and organization of~~
10 **not less than five (5) years of professional experience in library**
11 **service; management; and**

12 (3) possess such other qualifications as the ~~board; in its discretion;~~
13 **may deem commissioner considers** necessary.

14 (c) The **commissioner may remove the** director ~~may be removed~~
15 ~~by the board~~ at any time. ~~for cause:~~

16 SECTION 14. IC 4-23-7.1-38 IS AMENDED TO READ AS
17 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 38. (a) All state library
18 employees, except the director, shall be selected by the director with
19 the approval of the ~~board commissioner~~ and may be removed by the
20 director for cause at any time with the approval of the ~~board:~~
21 **commissioner.**

22 (b) In making selections for employment, recognition shall be given
23 to the fact that all certified librarians are under ~~the Library Certification~~
24 **Act IC 20-14-12** and that other staff personnel are under IC 4-15-2.

25 (c) Any or all of the state library employees must have had such
26 academic preparation and special training for the work which they are
27 required to perform as may be prescribed in rules ~~promulgated~~ **adopted**
28 by the ~~board:~~ **division.**

29 (d) The ~~board commissioner~~ may provide that appointments may
30 be made only after the applicant has successfully passed an
31 examination given by the ~~board director~~ or some person designated by
32 the ~~board:~~ **director.**

33 (e) No employee of the state library may directly or indirectly solicit
34 subscription or contribution for any political party or political purpose,
35 or be forced in any way to make such contribution, or be required to
36 participate in any form of political activity.

37 (f) The state budget agency shall fix the compensation of the
38 director. The director shall fix the compensation of the employees of
39 the state library with the approval of the ~~board commissioner~~ and the
40 **state** budget agency.

41 SECTION 15. IC 4-23-7.1-39 IS AMENDED TO READ AS
42 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 39. (a) The Indiana

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state library advisory council is established for the purpose of advising the ~~board commissioner~~ and the ~~state librarian director~~ concerning:

- (1) general policies of the state library;
- (2) plans or programs for library development and interlibrary cooperation;
- (3) library research;
- (4) professional development for librarians;
- (5) standards and rules for library services;
- (6) administration and distribution of state and federal funds; and
- (7) other matters as requested by the ~~board commissioner~~ and the ~~state librarian director~~.

(b) The advisory council consists of no fewer than fifteen (15) members.

(c) The membership of the council must be broadly representative and comply with the requirements established by the federal Department of Education under ~~34 CFR 770~~. **34 CFR 461.51, as in effect on January 1, 2003.**

(d) The ~~board commissioner~~ shall appoint the members of the council with nominations for appointment from library organizations and the ~~state librarian director~~.

(e) Members of the advisory council shall serve two (2) year terms.

(f) A member of the advisory council **who is not a state employee** is ~~not~~ entitled to ~~(+)~~ the minimum salary per diem provided by IC 4-10-11-2.1(b). ~~or~~

~~(2) (g) A member of the advisory council is entitled to reimbursement from state funds for traveling expenses travel, lodging, meals, and other expenses actually incurred in connection with the member's duties: as provided in the state travel policies and procedures established by the Indiana department of administration and approved by the budget agency.~~

(h) The commissioner of the department of Indiana heritage, or a person designated by the commissioner, shall serve as the chairperson of the advisory council.

SECTION 16. IC 5-15-5.1-1, AS AMENDED BY P.L.1-1999, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. As used in this chapter:

"Commissioner" means the commissioner of the department of Indiana heritage appointed under IC 4-35-3-2.

~~"Commission"~~ **"Division"** means the ~~commission on~~ public records **division** created by this chapter.

"Record" means all documentation of the informational, communicative or decisionmaking processes of state government, its



1 agencies and subdivisions made or received by any agency of state
 2 government or its employees in connection with the transaction of
 3 public business or government functions, which documentation is
 4 created, received, retained, maintained, or filed by that agency or its
 5 successors as evidence of its activities or because of the informational
 6 value of the data in the documentation, and which is generated on:

- 7 (1) paper or paper substitutes;
- 8 (2) photographic or chemically based media;
- 9 (3) magnetic or machine readable media; or
- 10 (4) any other materials, regardless of form or characteristics.

11 "Nonrecord materials" means all identical copies of forms, records,
 12 reference books, and exhibit materials which are made, or acquired,
 13 and preserved solely for reference use, exhibition purposes, or
 14 publication and which are not included within the definition of record.

15 "Personal records" means:

- 16 (1) all documentary materials of a private or nonpublic character
 17 which do not relate to or have an effect upon the carrying out of
 18 the constitutional, statutory, or other official or ceremonial duties
 19 of a public official, including: diaries, journals, or other personal
 20 notes serving as the functional equivalent of a diary or journal
 21 which are not prepared or utilized for, or circulated or
 22 communicated in the course of, transacting government business;
 23 or
- 24 (2) materials relating to private political associations, and having
 25 no relation to or effect upon the carrying out of constitutional,
 26 statutory, or other official or ceremonial duties of a public official
 27 and are not deemed public records.

28 "Form" means every piece of paper, transparent plate, or film
 29 containing information, printed, generated, or reproduced by whatever
 30 means, with blank spaces left for the entry of additional information to
 31 be used in any transaction involving the state.

32 "Agency" means any state office, department, division, board,
 33 bureau, commission, authority, or other separate unit of state
 34 government established by the constitution, law, or by executive or
 35 legislative order.

36 "Public official" means an individual holding a state office created
 37 by the Constitution of Indiana, by act or resolution of the general
 38 assembly, or by the governor; all officers of the executive and
 39 administrative branch of state government; and all other officers,
 40 heads, presidents, or chairmen of agencies of state government.

41 "Indiana state archives" means the program maintained by the
 42 ~~commission~~ **division** for the preservation of those records and other

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government papers that have been determined by the commission to have sufficient permanent values to warrant their continued preservation by the state.

"Forms management" means the program maintained by the ~~commission~~ **division** to provide continuity of forms design procedures from the form's origin up to its completion as a record by determining the form's size, style and size of type; format; type of construction; number of plies; quality, weight and type of paper and carbon; and by determining the use of the form for data entry as well as the distribution.

"Information management" means the program maintained by the ~~commission~~ **division** for the application of management techniques to the purchase, creation, utilization, maintenance, retention, preservation, and disposal of forms and records undertaken to improve efficiency and reduce costs of recordkeeping; including management of filing and microfilming equipment and supplies, filing and information retrieval systems, files, correspondence, reports and forms management, historical documentation, micrographic retention programming, and critical records protection.

"Records center" means a program maintained by the ~~commission~~ **division** primarily for the storage, processing, retrieving, servicing, and security of government records that must be retained for varying periods of time but should not be maintained in an agency's office equipment or space.

"Critical records" means records necessary to resume or continue governmental operations, the reestablishing of the legal and financial responsibilities of government in the state, or to protect and fulfill governmental obligations to the citizens of the state.

"Retention schedule" means a set of instructions prescribing how long, where, and in what form a record series shall be kept.

"Records series" means documents or records that are filed in a unified arrangement, and having similar physical characteristics or relating to a similar function or activity.

"Records coordinator" means a person designated by an agency to serve as an information liaison person between the agency and the ~~commission~~ **division**.

SECTION 17. IC 5-15-5.1-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. ~~There is created the commission on~~ **The public records division is created within the department of Indiana heritage established by IC 4-35-2-1** to administer this chapter for the administrative and executive branches of state government. The ~~commission~~ **division** shall adopt a seal, which

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shall be the seal of the state of Indiana. The ~~commission division~~ shall offer its services to the legislative and judicial branches of state government.

SECTION 18. IC 5-15-5.1-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. (a) The ~~governor~~ **commissioner** shall appoint a director as the executive head of the ~~commission division~~. The director must:

(1) **have a graduate degree in history, archives management, or a closely related field; and**

(2) be versed in the principles of information and forms management, archives, and the affairs and organization of state government.

The director shall serve a term of four (4) years. However, The director may be removed for cause by the governor. It is the intent of the general assembly that the director be a person who is qualified by training and experience to administer the affairs of the commission and that the director's tenure of office is limited only by the director's ability and the proper performance of the director's duties. **The commissioner may remove the director at any time.**

(b) The director, subject to the approval of ~~the governor~~, the **commissioner** and the budget agency, shall appoint such staff as necessary to implement this chapter. **Members of the staff are employees of the department of Indiana heritage.**

(c) The salary of the director is subject to the approval of the ~~governor commissioner~~ and the budget agency. Salaries of the staff are subject to the approval of the state personnel department and the budget agency. The provisions of IC 4-15-2 apply to the staff of the ~~commission division~~.

SECTION 19. IC 5-15-5.1-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5. (a) Subject to approval by the oversight committee on public records created by section 18 of this chapter, the ~~commission department of administration~~ shall do the following:

(1) Establish a forms management program for state government and approve the design, typography, format, logo, data sequence, form analysis, form number, and agency file specifications of each form.

(2) Establish a central state form numbering system and a central cross index filing system of all state forms, and standardize, consolidate, and eliminate, wherever possible, forms used by state government.

(3) Approve, provide, and in the manner prescribed by IC 5-22,



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purchase photo-ready copy for all forms.

(4) Establish and operate a distribution center for the receipt, storage, and distribution of all material printed for an agency.

(b) Subject to approval by the oversight committee on public records created by section 18 of this chapter, the division shall do the following:

~~(4)~~ **(1)** Establish a statewide records management program, prescribing the standards and procedures for record making and record keeping; however, the investigative and criminal history records of the state police department are exempted from this requirement.

~~(5)~~ **(2)** Coordinate utilization of all micrographics equipment in state government.

~~(6)~~ **Assist the Indiana department of administration in coordinating utilization of all duplicating and printing equipment in the executive and administrative branches.**

~~(7)~~ **(3)** Advise the Indiana department of administration with respect to the purchase of all records storage equipment.

~~(8)~~ **Establish and operate a distribution center for the receipt, storage, and distribution of all material printed for an agency.**

~~(9)~~ **(4)** Establish and operate a statewide archival program to be called the Indiana state archives for the permanent government records of the state, provide consultant services for archival programs, conduct surveys, and provide training for records coordinators.

~~(10)~~ **(5)** Establish and operate a statewide record preservation laboratory.

~~(11)~~ **(6)** Prepare, develop, and implement record retention schedules.

~~(12)~~ **(7)** Establish and operate a central records center to be called the Indiana state records center, which shall accept all records transferred to it, provide secure storage and reference service for the same, and submit written notice to the applicable agency of intended destruction of records in accordance with approved retention schedules.

~~(13)~~ **(8)** Demand, from any person or organization or body who has illegal possession of original state or local government records, those records, which shall be delivered to the commission.

~~(14)~~ **(9)** Have the authority to examine all forms and records housed or possessed by state agencies for the purpose of fulfilling the provisions of this chapter.

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(15) (10) In coordination with the ~~data processing state~~
~~information technology~~ oversight commission created under
 IC 4-23-16, establish standards to ensure the preservation of
 adequate and permanent computerized and auxiliary automated
 information records of the agencies of state government.

(16) (11) Notwithstanding IC 5-14-3-8, establish a schedule of
 fees for services provided to patrons of the Indiana state archives.
 A copying fee established under this subdivision may exceed the
 copying fee set forth in IC 5-14-3-8(c).

(b) (c) In implementing a forms management program, the
~~commission division~~ shall follow procedures and forms prescribed by
 the federal government.

(c) (d) Fees collected under subsection (a)(16) (b)(11) shall be
 deposited in the state archives preservation and reproduction account
 established by section 5.3 of this chapter.

SECTION 20. IC 5-15-5.1-18, AS AMENDED BY P.L.114-2001,
 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 JULY 1, 2003]: Sec. 18. (a) The oversight committee on public records
 consists ex officio of:

- (1) the governor or ~~his~~ **the governor's** designee;
- (2) the secretary of state or ~~his~~ **the secretary's** designee;
- (3) the state examiner of the state board of accounts or ~~his~~ **the**
state examiner's designee;
- (4) the director of the state library;
- (5) the director of the historical bureau;
- (6) the director of the commission on public records;
- (7) (4) the commissioner of the **Indiana** department of
 administration or ~~his~~ **the commissioner's** designee;
- (8) (5) the public access counselor; and
- (9) (6) the ~~executive director of the data processing oversight~~
~~commission~~ **commissioner** or the ~~executive director's~~
commissioner's designee.

(b) The oversight committee also consists of two (2) lay members
 appointed by the governor for a term of four (4) years. One (1) lay
 member shall be a professional journalist or be a member of an
 association related to journalism.

(c) The ~~oversight committee~~ **commissioner** shall ~~elect one (1) of its~~
~~members to be chairman. The director of the commission on public~~
~~records shall be the secretary of the committee.~~ **chair the committee.**

(d) The ex officio members of the oversight committee shall serve
 without compensation and shall receive no reimbursement for any
 expense which they may incur. Each lay member is entitled to

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reimbursement for traveling and other expenses as provided in the state travel policies and procedures, established by the department of administration and approved by the state budget agency and each lay member is entitled to the minimum salary per diem as provided in IC 4-10-11-2.1(b).

SECTION 21. IC 6-3.1-16-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. The definitions set forth in:

(1) ~~IC 14-8-2~~ **IC 4-35-1** that apply to ~~IC 14-21-1~~; **IC 4-35-5**; and

(2) ~~IC 14-21-1~~; **IC 4-35-5**;

apply throughout this chapter.

SECTION 22. IC 6-3.1-16-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. As used in this chapter, "division" means the ~~division of~~ historic preservation and archaeology **division** of the department of ~~natural resources~~. **Indiana heritage.**

SECTION 23. IC 10-7-2-34 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 34. (a) The commission shall employ an individual who is responsible for the care and preservation of all personal property owned by the commission that has historic significance.

(b) The individual employed by the commission under subsection (a) must meet the qualifications set by the **Indiana state museum** ~~division of state museums and historic sites~~ of the department of ~~natural resources~~. **Indiana heritage.**

SECTION 24. IC 14-8-2-48.2 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 48.2. "Commissioner", for purposes of IC 14-20, refers to the commissioner of the department of Indiana heritage appointed under IC 4-35-3-2.

SECTION 25. IC 14-8-2-61 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 61. "Council" has the following meaning:

(1) For purposes of IC 14-13-1-22, the meaning set forth in IC 14-13-1-22.

(2) For purposes of IC 14-13-1-23, the meaning set forth in IC 14-13-1-23.

(3) For purposes of IC 14-13-1-24, the meaning set forth in IC 14-13-1-24.

(4) For purposes of IC 14-13-1-25, the meaning set forth in IC 14-13-1-25.

(5) For purposes of ~~IC 14-21-1~~, the meaning set forth in

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~~IC 14-21-1-5.~~

SECTION 26. IC 14-8-2-67 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 67. (a) "Department", **except as provided in subsection (b)**, refers to the department of natural resources.

(b) "Department", for purposes of IC 14-20, refers to the department of Indiana heritage established by IC 4-35-2-1.

SECTION 27. IC 14-8-2-77, AS AMENDED BY P.L.145-2002, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 77. "Division" has the following meaning:

(1) For purposes of IC 14-9-8, the meaning set forth in IC 14-9-8-2.

(2) For purposes of IC 14-20-1, the meaning set forth in IC 14-20-1-2.

~~(3) For purposes of IC 14-21-1, the meaning set forth in IC 14-21-1-6.~~

~~(4)~~ (3) For purposes of IC 14-22, the division of fish and wildlife.

~~(5)~~ (4) For purposes of IC 14-24, the division of entomology and plant pathology.

~~(6)~~ (5) For purposes of IC 14-25.5, the division of water.

~~(7)~~ (6) For purposes of IC 14-31-2, the meaning set forth in IC 14-31-2-4.

~~(8)~~ (7) For purposes of IC 14-37, the division of oil and gas.

SECTION 28. IC 14-8-2-124 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 124. "Historic property", for purposes of IC 14-20-1, ~~and IC 14-21-1~~, means:

(1) a historic site;

(2) a historic structure; or

(3) other personal or real property located on or in a historic site or historic structure.

SECTION 29. IC 14-8-2-125 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 125. "Historic site", for purposes of IC 14-20-1, ~~and IC 14-21-1~~, means a site that is important to the general, archeological, agricultural, economic, social, political, architectural, industrial, or cultural history of Indiana. The term includes adjacent property that is necessary for the preservation or restoration of the site.

SECTION 30. IC 14-8-2-126 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 126. "Historic structure", for purposes of IC 14-20-1, ~~and IC 14-21-1~~, means a structure that is important to the general, archeological, agricultural, economic, social, political, architectural, industrial, or cultural history



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of Indiana. The term includes adjacent property that is necessary for the preservation or restoration of the structure.

SECTION 31. IC 14-8-2-202, AS AMENDED BY P.L.155-2002, SECTION 3 AND P.L.158-2002, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 202. (a) "Person" means, except as provided in subsections (b) through (j), an individual, a partnership, an association, a fiduciary, an executor or administrator, a limited liability company, or a corporation.

(b) "Person", for purposes of IC 14-12-2, has the meaning set forth in IC 14-12-2-3.

(c) "Person", for purposes of IC 14-16, IC 14-22-28, IC 14-24, IC 14-26-2, IC 14-28-1, IC 14-28-3, IC 14-29-6, and IC 14-38-2, means an individual, a partnership, an association, a fiduciary, an executor or administrator, a limited liability company, a corporation, other legal entity, the state, or an agency, a political subdivision, or another instrumentality of the state.

(d) "Person", for purposes of IC 14-12-1, IC 14-12-2, IC 14-20-1, ~~IC 14-21~~, IC 14-25 through IC 14-29, except as otherwise provided in this section, IC 14-33, IC 14-34, and IC 14-37, means an individual, a partnership, an association, a fiduciary, an executor or administrator, a limited liability company, a corporation, or a governmental entity.

(e) "Person", for purposes of IC 14-22-31.5, has the meaning set forth in IC 14-22-31.5-2.

(f) "Person", for purposes of IC 14-25-3, has the meaning set forth in IC 14-25-3-1.

(g) "Person", for the purposes of IC 14-25-7, has the meaning set forth in IC 14-25-7-5.

(h) "Person", for purposes of IC 14-34, means an individual, a partnership, a limited liability company, an association, a society, a joint stock company, a firm, a company, a corporation, or other business organization.

(i) "Person", for purposes of IC 14-38-1, has the meaning set forth in IC 14-38-1-2.

(j) "Person", for purposes of IC 14-24-12, has the meaning set forth in IC 14-24-12-4.

SECTION 32. IC 14-8-2-206, AS AMENDED BY P.L.35-2001, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 206. "Plan" has the following meaning:

~~(1) For purposes of IC 14-21-1, the meaning set forth in IC 14-21-1-8.~~

~~(2)~~ (1) For purposes of IC 14-30-2, the meaning set forth in IC 14-30-2-5.

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~~(3)~~ (2) For purposes of IC 14-30-4, the meaning set forth in IC 14-30-4-4.

SECTION 33. IC 14-8-2-258 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 258. "Site", for purposes of IC 14-20-1, ~~and IC 14-21~~, includes the following:

- (1) An aboriginal mound, a fort, an earthwork, a village location, a burial ground, a ruin, a mine, a cave, a battleground, a shipwreck, or other similar location on land or under water.
- (2) A location that contains or did contain a structure.

SECTION 34. IC 14-9-4-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. The following divisions are established within the department:

- (1) Accounting.
- (2) Administrative support services.
- (3) Budget.
- (4) Engineering.
- (5) Entomology and plant pathology.
- (6) Fish and wildlife.
- (7) Forestry.
- ~~(8) Historic preservation and archeology.~~
- ~~(9)~~ (8) Human resources.
- ~~(10)~~ (9) Internal audit.
- ~~(11)~~ (10) Land acquisition.
- ~~(12)~~ (11) Law enforcement.
- ~~(13)~~ (12) Management information systems.
- ~~(14)~~ (13) Nature preserves.
- ~~(15)~~ (14) Oil and gas.
- ~~(16)~~ (15) Outdoor recreation.
- ~~(17)~~ (16) Public information and education.
- ~~(18)~~ (17) Reclamation.
- ~~(19)~~ (18) Reservoir management.
- ~~(20)~~ (19) Safety and training.
- ~~(21)~~ (20) Soil conservation.
- ~~(22) State museums and historic sites.~~
- ~~(23)~~ (21) State parks.
- ~~(24)~~ (22) Water.

SECTION 35. IC 14-10-2-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. The commission may ~~do the following~~:

- ~~(1) Take the action that is necessary to enable the state to participate in the programs set forth in 16 U.S.C. 470 et seq.~~
- ~~(2) Promulgate and maintain a state register of districts, sites,~~

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buildings, structures, and objects significant in American or Indiana history; architecture; archeology; and culture and expend money for the purpose of preparing comprehensive statewide historic surveys and plans; in accordance with criteria established by the commission; that comply with the standards and regulations promulgated by the United States Secretary of the Interior for the preservation, acquisition, and development of the properties.

(3) Establish in accordance with criteria established by the United States Secretary of the Interior a program of matching grants-in-aid to public agencies for projects having as their purpose the preservation for public benefit of properties that are significant in American or Indiana history; architecture; archeology; and culture.

~~(4) accept grants from public and private sources. including those provided under 16 U.S.C. 470 et seq.~~

SECTION 36. IC 14-10-2-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5. (a) The department may adopt emergency rules under IC 4-22-2-37.1 to carry out the duties of the department under the following:

(1) IC 14-9.

(2) This article.

(3) IC 14-11.

(4) IC 14-12-2.

(5) IC 14-14.

(6) IC 14-17-3.

(7) IC 14-18, except IC 14-18-6 and IC 14-18-8.

(8) IC 14-19-1, IC 14-19-4, and IC 14-19-5.

~~(9) IC 14-20-1.~~

~~(10) IC 14-21.~~

~~(11)~~ (9) IC 14-22-3, IC 14-22-4, and IC 14-22-5.

~~(12)~~ (10) IC 14-23-1.

~~(13)~~ (11) IC 14-25, except IC 14-25-8-3, IC 14-25-11, and IC 14-25-13.

~~(14)~~ (12) IC 14-26.

~~(15)~~ (13) IC 14-27.

~~(16)~~ (14) IC 14-28.

~~(17)~~ (15) IC 14-29.

~~(18)~~ (16) IC 14-35-1, IC 14-35-2, and IC 14-35-3.

(b) A rule adopted under subsection (a) expires not later than one (1) year after the rule is accepted for filing by the secretary of state.

SECTION 37. IC 14-10-3-1 IS AMENDED TO READ AS

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FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. This chapter applies to the property managers of **the following**:

(1) Each of the following divisions of the department:

(1) (A) State parks.

(2) (B) Forestry.

(3) (C) Fish and wildlife.

(4) (D) Reservoir management.

(5) ~~state museums and historic sites~~ (2) **The history division of the department of Indiana heritage.**

SECTION 38. IC 14-11-3-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. (a) As used in this section, "license" means a license, a franchise, a permit, a certification, an approval, a registration, a charter, or a similar form of authorization that may be issued to a person by:

(1) the department;

(2) the commission; or

(3) the director;

under Indiana law. ~~The term does not include a license issued by the historic preservation review board established by IC 14-21-1-20.~~

(b) Notwithstanding any other law, the director shall issue all licenses.

(c) A designee of the director may issue licenses. A designee of the director must be a full-time employee of the department.

SECTION 39. IC 14-12-2-14, AS AMENDED BY P.L.170-2002, SECTION 92, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 14. (a) The Indiana heritage trust project committee is established.

(b) The project committee consists of the following sixteen (16) members:

(1) The director of the division of fish and wildlife.

(2) The director of the division of forestry.

(3) The director of the division of nature preserves.

(4) The director of the division of state parks.

(5) The director of the division of outdoor recreation.

(6) The director of the **history** division of ~~state museums and historic sites~~ **the department of Indiana heritage.**

(7) Ten (10) individuals appointed by the governor. The governor shall appoint individuals so that all the following are satisfied:

(A) The individuals must be residents of Indiana.

(B) The individuals must have a demonstrated interest or experience in:

(i) conservation of natural resources; or

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(ii) management of public property.

(C) Each Indiana congressional district must be represented by at least one (1) individual who is a resident of that congressional district.

(D) The individuals must represent the following:

(i) The environmentalist community.

(ii) The academic community.

(iii) Organized hunting and fishing groups.

(iv) The forest products community.

(v) The parks and recreation community.

SECTION 40. IC 14-20-1-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. As used in this chapter, "division" refers to the **Indiana state museum** division of ~~state museums and historic sites~~ **the department of Indiana heritage**.

SECTION 41. IC 14-20-1-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 6. As used in this chapter, "trustees" refers to the board of trustees for the **Indiana state museum** division of ~~state museums and historic sites~~ established by this chapter.

SECTION 42. IC 14-20-1-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 7. The division of ~~state museums and historic sites~~ shall administer and develop the programs and policies established by this chapter.

SECTION 43. IC 14-20-1-7.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 7.5. (a) The commissioner shall appoint a director as the executive head of the division.**

(b) The director must have:

(1) a graduate degree in museum studies, history, historic preservation, or a closely related discipline; and

(2) at least five (5) years professional experience in managing a museum.

(c) The commissioner may remove the director at any time.

SECTION 44. IC 14-20-1-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 10. The ~~section of museums~~ **division** shall do the following:

(1) Collect, preserve, and interpret artifacts and materials reflecting the cultural and natural history of Indiana.

(2) Prepare and maintain a ~~statewide~~ **an** inventory of these artifacts and materials **that are maintained at the Indiana state museum.**

(3) Assist other museums within Indiana to meet the criteria of

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1 museum accreditation.

2 SECTION 45. IC 14-20-1-15 IS AMENDED TO READ AS
3 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 15. The ~~director may,~~
4 ~~with the approval of the~~ commission **may** adopt rules under IC 4-22-2
5 to administer this chapter.

6 SECTION 46. IC 14-20-1-16 IS AMENDED TO READ AS
7 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 16. (a) The board of
8 trustees for the **Indiana state museum** division ~~of state museums and~~
9 ~~historic sites~~ is established.

10 (b) The trustees consist of ~~thirteen (13)~~ **eleven (11)** members as
11 follows:

12 (1) The ~~director~~ **commissioner** of the department, who shall serve
13 as chairman.

14 (2) ~~Twelve (12)~~ **Ten (10)** members appointed by the governor as
15 follows:

16 (A) One (1) member of the Indiana State Museum Society
17 nominated by the Society.

18 (B) One (1) member of the Indiana State Museum Volunteers
19 nominated by the volunteers.

20 ~~(C) Two (2) members must be recognized supporters of~~
21 ~~historic sites.~~

22 ~~(D) (C)~~ Not more than seven (7) members may be members of
23 the same political party.

24 ~~(E) (D)~~ Not more than two (2) members may be from the same
25 county.

26 ~~(F) (E)~~ Each congressional district in Indiana must be
27 represented by at least one (1) member.

28 (c) The terms of the appointed members shall be staggered.

29 SECTION 47. IC 14-20-1-21 IS AMENDED TO READ AS
30 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 21. ~~Seven (7)~~ **Six (6)**
31 members of the trustees constitute a quorum.

32 SECTION 48. IC 14-20-1-22 IS AMENDED TO READ AS
33 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 22. The trustees shall
34 do the following:

35 ~~(1) Nominate, when the position of division director is vacant, a~~
36 ~~person to be appointed by the director to that position. If the~~
37 ~~director rejects a nominee's appointment, the trustees shall~~
38 ~~nominate another person.~~

39 ~~(2) Recommend, when appropriate, the dismissal of a division~~
40 ~~director.~~

41 ~~(3) (1)~~ Make recommendations concerning the salary ranges of
42 the administrative, professional, and technical staff of the

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division.

~~(4)~~ (2) Review the budget needs and requests of the division and make recommendations concerning the needs and requests to the governor through the ~~director~~ **commissioner**.

~~(5)~~ (3) Recommend that the department accept or reject, hold, or dispose of grants of **personal** property to be administered by the division for the purpose of preservation, research, or interpretation of significant areas, events, or grants to citizens of Indiana for the purpose of preserving, studying, and interpreting archeological and natural phenomena, cultural trends, and accomplishments.

~~(6)~~ (4) Review, guide, and assist in the development of statewide outreach programs.

~~(7)~~ (5) Review, guide, and assist in the development of professionalism of the staff and operations.

~~(8)~~ (6) Review, recommend, and devise methods to enable the division to do the following:

~~(1)~~ (A) Increase the division's physical plant.

~~(2)~~ (B) Expand the educational areas.

~~(3)~~ (C) Meet storage needs.

~~(9)~~ (7) Develop a plan of growth to meet physical, program, and financial needs for both the immediate and long range future, monitor the plan at regular intervals, and ensure that the institution stays within the developed plan.

~~(10)~~ (8) Recommend policies, procedures, and practices that the commission, the ~~director~~ **commissioner**, and the ~~secretary~~ **director of the division** shall consider.

~~(11)~~ (9) Give advice or make recommendations to the governor and the general assembly when requested or on the initiative of the trustees.

~~(12)~~ (10) Review the conduct of the work of the division. To implement this duty, the trustees have access at any reasonable time to copies of all records pertaining to the work of the division.

~~(13)~~ (11) Adopt bylaws consistent with this chapter for the division's internal control and management and file a copy of the bylaws with the ~~director~~ **commissioner**.

~~(14)~~ (12) Hold meetings at the times and places in Indiana that are prescribed by the bylaws, but at least quarterly.

~~(15)~~ (13) Keep minutes of the transactions of each regular and special meeting and file the minutes with the ~~director~~ **commissioner**. The minutes are public records.

~~(16)~~ (14) Promote the welfare of the division.

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(17) (15) Make recommendations concerning the administration of the fund established by section 24 of this chapter.

SECTION 49. IC 14-20-1-23 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 23. (a) ~~The commission may, on recommendation of the trustees, accept or refuse to accept an offered gift of historic property that would be administered by the department.~~

(b) ~~The commission may, on recommendation of the trustees, sell, lease, or exchange historic property administered by the department under IC 4-20.5-7 or IC 5-22-22.~~

(c) (a) The commission may, on recommendation of the trustees and in accordance with rules adopted by the commission under IC 4-22-2, sell, donate, or exchange artifacts in the museum's collection to or with other public or nonprofit museums or historical societies. However, the commission may donate an artifact in the museum's collection to a public or nonprofit museum or historical society under this subsection only if the museum or historical society is located in Indiana.

(d) (b) The commission may, on recommendation of the trustees, adopt rules under IC 4-22-2 to establish a procedure for evaluating the merits of proposals to:

- (1) accept gifts of;
- (2) sell; or
- (3) exchange;

artifacts or historic property.

SECTION 50. IC 14-20-4-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 10. The commission shall do the following:

(1) Recommend legislation to do the following:

(A) Protect the area from the environmental degradation.

(B) Assure development of the historic, scenic, aesthetically pleasing, cultural, educational, and recreational nature of the community.

(2) Conduct a survey of New Harmony memorabilia that is in existence and establish a plan for restoring the memorabilia to the community.

(3) Conduct other activities that are necessary for promotion and enhancement of the area of New Harmony.

(4) Cooperate with the department, **the department of natural resources**, and **the** Indiana department of transportation on recommending access and egress from New Harmony.

SECTION 51. IC 14-20-6-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. The real property



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shall be administered, maintained, managed, and controlled by the department in the same manner as the state parks **are managed and controlled by the department of natural resources** and shall be known as The James F.D. Lanier Home.

SECTION 52. IC 14-20-12-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. Thousands of Hoosiers all over the nation have contributed toward the moving and restoration of this historic house and because the house has already proven to be an outstanding tourist attraction and in keeping with our great American heritage, it is the intent of this chapter that the department of commerce, the department **of Indiana heritage, the department of natural resources**, and other appropriate state boards and agencies give widespread publicity to this memorial by brochure, pamphlet, or other means.

SECTION 53. IC 14-21-1-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 18. (a) A:

(1) historic ~~site or historic structure~~ **property** owned by the state; or

(2) historic site or historic structure listed on the state or national register;

may not be altered, demolished, or removed by a project funded, in whole or in part, by the state unless the review board has granted a certificate of approval.

(b) **Notwithstanding subsection (a) and if the division finds that an emergency exists in order to protect a historic property owned by the state that has been damaged by fire or a natural disaster in the interim between meetings of the review board, the division may approve routine maintenance, rebuilding, or reconstruction of the historic property without requiring a certificate of approval from the review board.**

(c) An application for a certificate of approval:

(1) must be filed with the division; and

(2) shall be granted or rejected by the review board after a public hearing.

The division may make a recommendation to the review board concerning any application for a certificate of approval that is filed under this section concerning a historic property owned by the state.

~~(c)~~ (d) Subsections (a) ~~and (b)~~ through (c) do not apply to real property that is owned by a state educational institution (as defined in IC 20-12-0.5-1).

~~(d)~~ (e) The commission for higher education and each state



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educational institution, in cooperation with the division of historic preservation and archeology, shall develop and continually maintain a survey of historic sites and historic structures owned by the state educational institution. Historic sites and historic structures include buildings, structures, outdoor sculpture, designed landscapes, gardens, archeological sites, cemeteries, campus plans, and historic districts. A survey developed under this subsection must conform with the Indiana Historic Sites and Structures Survey Manual.

(f) The state historic preservation officer no later than one (1) year after receipt of a ten (10) year capital plan under IC 14-21-1-18.5 shall:

- (1) review a proposed state college or university project that involves a historic site or historic structure owned by a state educational institution; and
- (2) submit an advisory report to the commission for higher education, the state educational institution, and the general assembly.

(g) Not more than thirty (30) days after a state college or university, under section 18.6 of this chapter, submits to the division a description of a proposed project that involves the substantial alteration, demolition, or removal of a historic site or historic structure, the state historic preservation officer shall:

- (1) review the description of the proposed project; and
- (2) submit to the state college or university an advisory report concerning the proposed project.

The state college or university shall review and consider the advisory report before proceeding with the substantial alteration, demolition, or removal of a historic site or historic structure.

SECTION 54. IC 14-21-1-18.7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 18.7. (a) This section applies to historic property owned by the state other than property that is owned by a state educational institution (as defined in IC 20-12-0.5-1).**

(b) The division shall periodically conduct a survey using the most current standard procedures for the survey of historic property. The survey includes the following:

- (1) A determination of the:**
 - (A) existence;**
 - (B) description;**
 - (C) location; and**
 - (D) managing authority;**

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of each historic property owned by the state.

(2) The assignment of a historic rating to each historic structure owned by the state using the most current standard procedures for the assignment of these ratings.

(c) The chief executive officer of each managing authority identified under subsection (b) shall designate a historic preservation liaison officer to do the following:

(1) Be responsible for communication among:

(A) the managing authority;

(B) the division; and

(C) other historic preservation organizations or interests.

(2) Notify the division when the managing authority receives approval from the budget committee to make changes to a state owned historic property.

(d) The division shall biannually conduct an education program for:

(1) managing authorities; and

(2) historic preservation liaison officers;

of historic property owned by the state. The education program must provide information concerning the managing authority's and liaison officer's responsibilities under this chapter.

SECTION 55. IC 14-21-1-24 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 24. (a) As used in this section, "agricultural purpose" includes farming, dairying, pasturage, agriculture, horticulture, floriculture, viticulture, ornamental horticulture, olericulture, pomiculture, animal husbandry, and poultry husbandry.

(b) Sections 25, 26, 28, and 29 of this chapter do not apply to the following:

(1) Surface coal mining regulated under IC 14-34.

(2) **Except as provided in IC 23-14-57-1 for the removal of a human body from a cemetery under a court order**, cemeteries and human remains subject to IC 23-14.

(3) Disturbing the earth for an agricultural purpose.

(4) Collecting any object other than human remains that is visible in whole or in part on the surface of the ground, regardless of the time the object was made or shaped.

SECTION 56. IC 14-21-1-32 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 32. (a) The Historic Landmarks Foundation of Indiana, Inc., or any of its successors, has a private right of action to enforce and prevent violation of this chapter and**

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has the right to restrain, enjoin, or enforce by restraining order or injunction, temporarily or permanently, any person from violating this chapter.

(b) The Historic Landmarks Foundation of Indiana, Inc., or any of its successors, does not have to allege or prove irreparable harm or injury to any person or property to obtain relief under this section.

(c) The Historic Landmarks Foundation of Indiana, Inc., or any of its successors, when bringing an action under this section, does not have to post a bond unless the court, after a hearing, determines that a bond should be required in the interest of justice.

(d) The Historic Landmarks Foundation of Indiana, Inc., or any of its successors, when bringing an action under this section, is not liable to any person for damages resulting from bringing or prosecuting the action unless the action was brought without good faith or without a reasonable belief that a provision of this chapter had been or was about to be violated or breached.

(e) If the Historic Landmarks Foundation of Indiana, Inc., or any of its successors, obtains a favorable judgment in an action under this section, the organization may recover reasonable attorney's fees and court costs from the person against whom judgment was rendered.

(f) The remedy provided in this section is in addition to any other legal remedy that may be available.

SECTION 57. IC 14-29-1-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 8. (a) A person, other than a public or municipal water utility, may not:

- (1) place, fill, or erect a permanent structure in;
- (2) remove water from; or
- (3) remove material from;

a navigable waterway without a permit from the department.

(b) An application for a permit under this section must be made in a manner prescribed by rule.

(c) The department shall issue a permit if the issuance of the permit will not do any of the following:

- (1) Unreasonably impair the navigability of the waterway.
- (2) Cause significant harm to the environment.
- (3) Pose an unreasonable hazard to life or property.

(d) A separate permit is not required under this section for an activity permitted under any of the following:

- (1) ~~IC 14-21-1.~~
- (2) (1) IC 14-28-1.

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1 ~~(3)~~ **(2)** IC 14-29-3.

2 ~~(4)~~ **(3)** IC 14-29-4.

3 ~~(5)~~ **(4)** IC 14-34.

4 ~~(6)~~ **(5)** IC 14-37.

5 However, a permit issued under a statute specified in this subsection
6 must also apply the requirements of this section with respect to an
7 activity within a navigable waterway.

8 (e) A separate permit is not required under this section for an
9 activity for which a permit has been issued under any of the following:

10 (1) 16 U.S.C. 1451 et seq. (the federal Coastal Zone Management
11 Act).

12 (2) 33 U.S.C. 1344 (the federal Clean Water Act).

13 (3) 42 U.S.C. 9601 et seq. (the federal Comprehensive
14 Environmental Response, Compensation, and Liability Act).

15 (f) The department shall adopt rules under IC 4-22-2 to implement
16 this section.

17 (g) A person who violates this section commits a Class B infraction.

18 SECTION 58. IC 14-34-4-10 IS AMENDED TO READ AS
19 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 10. (a) The director
20 may not approve a permit application unless, in addition to the findings
21 required by section 7 of this chapter, the director states in writing that
22 the director has ~~considered~~ **consulted with the commissioner of the**
23 **department of Indiana heritage concerning** the effects of the
24 proposed mining operation on a place listed on or eligible for listing on
25 the National Register of Historic Places or the Indiana state register of
26 historic sites and structures.

27 (b) If the director considers it appropriate in accordance with rules
28 adopted by the commission under this section, the director may impose
29 conditions on a permit for the protection of properties or sites listed on
30 or eligible for listing on the National Register of Historic Places or the
31 Indiana state register of historic sites and structures requiring that:

32 (1) mining operations not occur in the areas occupied by the
33 properties or sites; or

34 (2) measures be implemented to mitigate the effects of the
35 operation upon those properties or sites before mining.

36 (c) The commission shall adopt rules under IC 4-22-2 to implement
37 this section consistent with the following general principles:

38 (1) The commission's rules may not prohibit the use of
39 information from any source and shall recognize the
40 responsibilities of the state historic preservation officer under
41 ~~IC 14-21-1-12~~ **IC 4-35-5-11** and ~~IC 14-21-1-15~~ **IC 4-35-5-15**.

42 (2) The commission's rules must provide for participation by

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professional and amateur archeologists, anthropologists, historians, or related experts in any:

- (A) field investigations;
- (B) studies; or
- (C) records searches;

required by the director under this section.

(3) The commission's rules must strive to ensure that field investigations and studies are required only where a substantial likelihood exists that important and significant archeological or historic sites are present.

(4) In considering the effect of proposed surface coal mining and reclamation operations on a property or site eligible for listing on the National Register of Historic Places, the director shall consider the following:

(A) Based on information available from the ~~division of~~ historic preservation and archeology **division of the department of Indiana heritage**, the relative importance of the property or site compared to other properties or sites in Indiana listed on or eligible for listing on the National Register of Historic Places.

(B) The cost of an investigation of the permit area or site as estimated by the applicant. A decision that an investigation is not required may not be based on cost alone.

(5) This section does not authorize rules that impair the ownership of artifacts or other material found on private land.

(d) The director may do the following:

(1) Investigate the possibility of obtaining available federal or private:

- (A) grants;
- (B) subsidies; or
- (C) aid;

to defer the cost to private individuals of measures required by the director under this section.

(2) Apply for any:

- (A) grants;
- (B) aid; or
- (C) subsidies;

that the director determines are available.

(e) In making the finding required by this section, the director shall take into account the general principles set forth in subsection (c).

SECTION 59. IC 20-11-3-5.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5.5. (a) As used in this

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section, "concerned state agency" includes the following state agencies that are inherently concerned with the mission of the coalition as stated in section 1 of this chapter:

- (1) The ~~state library and historical society~~: **department of Indiana heritage**.
- (2) The department of workforce development.
- (3) The department of correction.
- (4) The office of the secretary of family and social services.
- (5) The department of commerce.
- (6) The department of education.

(b) The **commissioner**, director, **or secretary** of a concerned state agency shall:

- (1) appoint an ex officio member to serve on the coalition; and
- (2) provide appropriate support to the coalition.

SECTION 60. IC 20-14-12-1.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1.1. As used in this chapter, ~~"board"~~ **"commission"** refers to the Indiana ~~library and historical board~~ **heritage commission** established under ~~IC 4-23-7-2~~: **IC 4-35-4-1**.

SECTION 61. IC 20-14-12-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. The ~~board~~ **commission** shall do the following:

- (1) Prescribe and define grades of public library service and prescribe the qualifications that persons must possess who are employed in each of the grades of public library service, giving due consideration to the population served, the income, and the salary schedule of each library.
- (2) Make available the requirements for certification of all grades upon request and without charge to all prospective applicants.
- (3) Issue certificates to candidates who apply for them, and who, by reason of their academic or technical training and experience, are found to be suitable persons to certify.
- (4) Prescribe and define what constitutes a library director, a head of a department or branch, or a professional assistant of a public library.
- (5) Adopt under IC 4-22-2 rules that the ~~board~~ **commission** determines are necessary to administer this chapter.

SECTION 62. IC 20-14-12-7, AS AMENDED BY P.L.1-1999, SECTION 50, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 7. (a) A person who:

- (1) desires to be certified as a librarian in any designated division, grade, or type of public library service; and



(2) possesses the qualifications prescribed in the rules of the ~~board~~ **commission** as essential to enable a person to apply for a certificate;

may apply to the ~~board~~ **commission** for a certificate in any grade or grades of public library service.

(b) The application must be:

(1) made on a form prescribed and supplied by the ~~board~~ **commission**; and

(2) accompanied by the fee set by the ~~board~~ **commission** under section 11 of this chapter.

(c) If the application is found to be satisfactory, the applicant is entitled to a certificate in the grade or grades of public library service for which **the applicant** applied.

SECTION 63. IC 20-14-12-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 9. The ~~board~~ **commission** may adopt rules necessary for the reciprocal recognition of certificates for librarians issued by other states whose qualifications for library service are at least as high as the qualifications in Indiana, in order to prevent unjust and arbitrary exclusions by other states of certified librarians who have complied with the requirements of Indiana law. In order to effect this section, the ~~board~~ **commission** shall consider the recommendations of the American Library Association.

SECTION 64. IC 20-14-12-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 11. (a) The ~~board~~ **commission** shall adopt rules under IC 4-22-2 to set fees to be paid by an individual who applies for certification under section 7 of this chapter. If the ~~board~~ **commission** has not set a fee by rule for a particular type of application, the fee is one dollar (\$1).

(b) Payment of fees set under this section may be made by any of the following:

- (1) Cash.
- (2) A draft.
- (3) A money order.
- (4) A cashier's check.
- (5) A certified check.
- (6) A personal check.

If an individual pays a fee with an uncertified personal check and the check does not clear the bank, the ~~board~~ **commission** may void the certificate for which the check was received.

(c) Unless specified by the rules of the ~~board~~ **commission**, a fee is not refundable or transferable.

(d) Fees shall be paid to the library certification account established

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under section 10 of this chapter.

SECTION 65. IC 20-14-12-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 14. All complaints concerning a practitioner must be written, signed by the complainant, and initially filed with the director. Except for an employee of the attorney general's office acting in an official capacity, a complaint may be filed by any person, including ~~a member~~ **an employee** of the ~~board~~ **division**.

SECTION 66. IC 20-14-12-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 15. The director has the following duties and powers:

(1) The director shall make an initial determination as to the merit of a complaint. The director shall submit a copy of a complaint having merit to the ~~board~~ **commission**. Except as otherwise provided by this chapter, the ~~board~~ **commission** acquires jurisdiction over the complaint upon submission of the complaint to the ~~board~~ **commission** by the director.

(2) The director shall notify the practitioner of the nature and ramifications of the complaint and of the duty of the ~~board~~ **commission** to attempt to resolve the complaint through negotiation.

(3) The director shall report any pertinent information regarding the status of the complaint to the complainant.

(4) The director may investigate any written complaint against a practitioner. The director shall limit the investigation to areas that appear to be in violation of this chapter or rules adopted under this chapter.

(5) The director may:

(A) subpoena witnesses; or

(B) send for and compel the production of books, records, papers, and documents;

in relation to an investigation under this chapter. The circuit or superior court located in the county where a subpoena is to be issued shall enforce the subpoena.

SECTION 67. IC 20-14-12-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 19. If there has not been a statement filed under section 17 of this chapter, and if after conducting an investigation the director believes the practitioner should be subject to disciplinary sanctions by the ~~board~~ **commission**, the director shall file a report with the attorney general. Upon receiving the director's report, the attorney general may prosecute the matter before the ~~board~~ **commission** on behalf of the state.



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1 SECTION 68. IC 20-14-12-21 IS AMENDED TO READ AS
 2 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 21. (a) IC 4-21.5
 3 applies to proceedings to discipline a practitioner under this chapter.

4 (b) The ~~board~~ **commission** is the ultimate authority under IC 4-21.5.

5 SECTION 69. IC 20-14-12-22 IS AMENDED TO READ AS
 6 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 22. (a) A complaint and
 7 information pertaining to the complaint are confidential until the
 8 attorney general files notice with the ~~board~~ **commission** of intent to
 9 prosecute the practitioner.

10 (b) Unless required to do so under law or in furtherance of an
 11 investigation, a person employed by the office of the attorney general,
 12 the ~~board~~, ~~division~~, or the director may not disclose or further the
 13 disclosure of information concerning a complaint.

14 SECTION 70. IC 20-14-12-23 IS AMENDED TO READ AS
 15 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 23. A practitioner may
 16 be disciplined under section 26 of this chapter if, after a hearing, the
 17 ~~board~~ **commission** finds any of the following:

18 (1) The practitioner has:

19 (A) employed or knowingly cooperated in fraud or material
 20 deception in order to obtain a certificate issued under this
 21 chapter;

22 (B) engaged in fraud or material deception in the course of
 23 professional services or activities; or

24 (C) advertised services in a false or misleading manner.

25 (2) The practitioner has been convicted of a crime that has a
 26 direct bearing on the practitioner's ability to practice competently.

27 (3) The practitioner has knowingly violated a rule adopted by the
 28 ~~board~~ **commission**.

29 (4) The practitioner has continued to practice although the
 30 practitioner has become unfit to practice due to:

31 (A) professional incompetence;

32 (B) failure to keep abreast of current professional theory or
 33 practice;

34 (C) physical or mental disability; or

35 (D) addiction or severe dependency upon alcohol or other
 36 drugs which endangers the public by impairing a practitioner's
 37 ability to practice safely.

38 (5) The practitioner has engaged in a course of lewd or immoral
 39 conduct in connection with the practitioner's practice.

40 SECTION 71. IC 20-14-12-24 IS AMENDED TO READ AS
 41 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 24. The ~~board~~
 42 **commission** may order a practitioner to submit to a reasonable physical

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or mental examination if the practitioner's physical or mental capacity to practice safely is at issue in a disciplinary proceeding.

SECTION 72. IC 20-14-12-25 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 25. Failure of a practitioner to comply with a **board commission** order to submit to a physical or mental examination renders the practitioner liable to the summary revocation procedures under section 27 of this chapter.

SECTION 73. IC 20-14-12-26 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 26. The **board commission** may impose any of the following sanctions, singly or in combination, if the **board commission** finds a practitioner has committed an offense under section 23 of this chapter:

- (1) Permanently revoke the practitioner's certificate.
- (2) Suspend the practitioner's certificate.
- (3) Censure the practitioner.
- (4) Issue a letter of reprimand.
- (5) Place the practitioner on probation status and require the practitioner to:
 - (A) report regularly to the **board commission** upon the matters that are the basis of the probation;
 - (B) limit practice to those areas prescribed by the **board commission**; or
 - (C) continue or renew professional education under a practitioner approved by the **board commission** until a satisfactory degree of skill has been attained in those areas that are the basis of the probation.

The **board commission** may withdraw the probation if the **board commission** finds that the deficiency that required disciplinary action has been remedied.

SECTION 74. IC 20-14-12-27 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 27. The **board commission** may summarily suspend a practitioner's certificate for ninety (90) days in advance of final adjudication or during the appeals process if the **board division** finds that the practitioner represents a clear and immediate danger to the public health and safety if the practitioner is allowed to continue to practice. The summary suspension may be renewed upon a hearing before the **board commission**, and each renewal may be for ninety (90) days or less.

SECTION 75. IC 20-14-12-28 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 28. The **board commission** may reinstate a certificate that has been suspended under this chapter if, after a hearing, the **board commission** is satisfied that

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the applicant is able to practice with reasonable skill and safety. As a condition of reinstatement, the **board commission** may impose disciplinary or corrective measures authorized under this chapter.

SECTION 76. IC 20-14-12-29 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 29. The **board commission** shall seek to achieve consistency in the application of sanctions authorized in this chapter, and significant departures from prior decisions involving similar conduct shall be explained in the **board's commission's** findings or orders.

SECTION 77. IC 23-14-34-10 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 10. (a) **This section may not be construed to authorize violation of the confidentiality of information requirements of 16 U.S.C. 470(w) and 16 U.S.C. 470(h)(h).**

(b) **This section does not apply to the following:**

- (1) **A public utility (as defined in IC 8-1-2-1(a)).**
- (2) **A corporation organized under IC 8-1-13.**
- (3) **A municipally owned utility (as defined in IC 8-1-2-1(h)).**
- (4) **Property that has been subject to bonding or other financial assurances released by the appropriate governmental agency after compliance with applicable state laws.**

(c) **Before a person may record any interest in property on which a burial ground or cemetery is known to be located, the owner of the property must record the deed to the property in the recorder's office of the county where the property is located. The bottom portion of the deed must state in capital letters in bold type that the deed pertains to property on which a burial ground or cemetery is known to be located.**

(d) **The county auditor shall send a copy of the deed to:**

- (1) **the historic preservation and archeology division of the department of Indiana heritage; and**
- (2) **the local cemetery board, or if no local cemetery board exists, to the county commissioners;**

not later than thirty (30) days after the deed is recorded under subsection (c).

(e) **The recording that this section requires is in addition to any other recording that may be required by this chapter.**

(f) **A person who violates subsection (c) commits a Class C infraction.**

SECTION 78. IC 23-14-57-1, AS AMENDED BY P.L.155-2002,



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SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. (a) As used in this section, "removed" refers to the disinterment, disentombment, or disinurnment of the remains of a deceased human.

(b) Except as provided in subsection (e), the remains, either cremated or uncremated, of a deceased human shall not be removed from a cemetery without **one (1) of the following authorizing the disinterment, disentombment, or disinurnment:**

(1) A written order issued by the state department of health.

(2) The written consent of:

(A) the owner of the cemetery; or

(B) the owner's representative. ~~and~~

(3) The written consent of:

(A) the spouse of the deceased; or

(B) the parents of the deceased in the case of a deceased minor child.

~~authorizing the disinterment, disentombment, or disinurnment.~~

(4) A court order. However, a court may not issue an order unless the person requesting the court order demonstrates to the court that the removal complies with a plan approved by the department of natural resources under IC 14-21-1-25.

(c) Before issuing a written authorization under subsection (b), the state department of health shall do the following:

(1) Obtain written evidence of the legal ownership of the property from which the remains will be removed.

(2) Send written notice to the department of natural resources, division of historic preservation and archeology, of the time, date, and place from which the remains will be removed.

(3) Obtain written evidence that a licensed funeral director has agreed to:

(A) be present at the removal and at the reinterment, reentombment, or reinurnment of the remains; and

(B) cause the completed order of the state department of health to be recorded in the office of the county recorder of the county where the removal occurred.

(4) Obtain written evidence that a notice of the proposed removal has been published at least five (5) days before a written order is issued by the state department of health in a newspaper of general circulation in the county where the removal will occur.

(5) Obtain a copy of:

(A) the written consent required under subsection (b)(3); or

(B) a court order obtained by a person under subsection (d).

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(d) If the written consent of:

(1) the spouse of the deceased; or

(2) the parents of the deceased in the case of a deceased minor; is not available, a person who has made a request under this section to the state department of health may petition a court to determine whether to waive the consent requirement of subsection (b)(3). In determining whether to waive the requirement, the court shall consider the viewpoint of any issue (as defined in IC 29-1-1-3) of the deceased. In a proceeding under this subsection, the court may not order the disinterment, disinterment, or disinterment of the remains of a deceased human.

(e) This subsection applies only if the human remains are on property owned or leased by a coal company. The remains, either cremated or uncremated, of a deceased human may be removed from a cemetery by a coal company if the coal company obtains a court order authorizing the disinterment, disinterment, or disinterment. Before issuing a court order under this subsection, a court must conduct a hearing and be satisfied as to the following:

(1) That the property is owned or leased by the coal company.

(2) That the coal company has obtained the written consent of:

(A) the spouse of the deceased; or

(B) the parents of the deceased in the case of a deceased minor child;

authorizing the disinterment, disinterment, or disinterment. If the consent is not available, the court may waive the requirement after considering the viewpoint of any issue (as defined in IC 29-1-1-3) of the deceased.

(3) That the department of natural resources, division of historic preservation and archeology, has received at least five (5) days written notice of the time, date, and place of any hearing under this subsection. The notice must describe the proposed place from which the remains will be removed.

(4) That a licensed funeral director has agreed to:

(A) be present at the removal and at the reinterment, reinterment, or reinterment of the remains; and

(B) cause the completed order of the state department of health to be recorded in the office of the county recorder of the county where the removal occurred.

(5) That the coal company has caused a notice of the proposed removal to be published at least five (5) days before the hearing in a newspaper of general circulation in the county where the removal will occur.

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(6) That the coal company will notify the department of natural resources, division of historic preservation and archeology, after the hearing of the proposed time and date when the remains will be removed.

(f) The state department of health may adopt rules under IC 4-22-2 to implement this section.

SECTION 79. IC 23-14-67-3.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3.5. (a) Before March 1 of each year, a county cemetery commission shall file an annual report with the ~~Indiana historical bureau established by IC 4-23-7-3.~~ **historic preservation and archeology division of the department of Indiana heritage.**

(b) An annual report filed under this section must include information on the following:

- (1) The budget of the county cemetery commission for the preceding calendar year.
- (2) Expenditures made by the county cemetery commission during the preceding calendar year.
- (3) Activities of the county cemetery commission during the preceding calendar year.
- (4) Plans of the county cemetery commission for the calendar year during which the report is filed.

(c) The ~~Indiana historical bureau~~ **department of Indiana heritage** shall make reports filed under this section available for public inspection under IC 5-14-3.

SECTION 80. IC 23-14-77 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]:

Chapter 77. Cemetery Preservation

Sec. 1. This chapter does not apply to the following:

- (1) A cemetery owner (as defined in IC 23-14-33-8) in the course of performing a legitimate function under this article in relation to the owner's cemetery (as defined in IC 23-14-33-7).
- (2) The owner of a grave memorial who, for the purpose of replacing a grave memorial with a different grave memorial, transfers ownership of the grave memorial to a cemetery, cemetery owner, or grave memorial provider.

Sec. 2. As used in this chapter, "grave memorial" refers to a gravestone, monument, grave marker, or any other type of similar item.

Sec. 3. (a) A person who may lawfully remove a grave memorial

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1 must file the following with the county recorder of the county
2 where the grave memorial is located before removing the grave
3 memorial:

4 (1) A precise description of all text appearing on the grave
5 memorial, including:

- 6 (A) names;
7 (B) dates;
8 (C) references to other individuals; and
9 (D) mementos.

10 (2) A photograph of the grave memorial.

11 (3) A written description and photograph of the location of
12 the site from which the grave memorial is to be removed.

13 (b) A person who knowingly fails to comply with this section
14 commits a Class C misdemeanor.

15 Sec. 4. (a) A county recorder may collect a filing fee under
16 IC 36-2-7-10 for filings under section 3 of this chapter.

17 (b) A county recorder is:

- 18 (1) not required to obtain special recording equipment for the
19 purpose of recording the information listed in section 3 of this
20 chapter; and
21 (2) required to record only the information listed in section 3
22 of this chapter that the recorder's current recording
23 equipment can accommodate.

24 (c) The state board of accounts shall prescribe a form for
25 recording the information listed in section 3 of this chapter. The
26 form shall be available to the public at each local health
27 department office.

28 Sec. 5. (a) A person may not buy or sell any of the following that
29 has been removed from a cemetery:

- 30 (1) Grave memorial.
31 (2) Grave artifact.
32 (3) Grave ornamentation.
33 (4) Cemetery enclosure.
34 (5) Other commemorative item.

35 (b) A person who knowingly violates this section commits a
36 Class C misdemeanor.

37 SECTION 81. IC 34-30-2-55.5 IS ADDED TO THE INDIANA
38 CODE AS A NEW SECTION TO READ AS FOLLOWS
39 [EFFECTIVE JULY 1, 2003]: Sec. 55.5. IC 14-21-1-32 (Concerning
40 actions brought by The Historic Landmarks Foundation of
41 Indiana, Inc. or its successors).

42 SECTION 82. THE FOLLOWING ARE REPEALED [EFFECTIVE



JULY 1, 2003]: IC 4-13-12; IC 4-23-7-2.1; IC 4-23-7-3; IC 4-23-7-3.2; IC 4-23-7-5.3; IC 4-23-7.1-23; IC 4-23-7.2; IC 4-23-8; IC 14-8-2-5; IC 14-8-2-16; IC 14-8-2-30; IC 14-8-2-31; IC 14-8-2-127; IC 14-8-2-236; IC 14-8-2-244; IC 14-8-2-266.8; IC 14-8-2-268; IC 14-8-2-268.5; IC 14-20-1-8; IC 14-20-1-9; IC 14-20-1-11; IC 14-20-1-12; IC 14-20-1-13; IC 14-20-1-14; IC 14-21; IC 20-14-12-16; IC 20-14-12-18; IC 20-14-12-20.

SECTION 83. [EFFECTIVE JULY 1, 2003] (a) Notwithstanding IC 4-35-4-3(a), as added by this act, the initial terms of office for the six (6) individuals appointed to the Indiana heritage commission by the governor under IC 4-35-4-1(10) are as follows:

(1) Two (2) members for terms of one (1) year each.

(2) Two (2) members for terms of two (2) years each.

(3) Two (2) members for terms of three (3) years each.

(b) The initial terms begin July 1, 2003.

(c) This SECTION expires July 1, 2006.

SECTION 84. [EFFECTIVE JULY 1, 2003] (a) The Indiana state museum division renamed by this act is a continuation of the section of museums of the division of state museums and historic sites of the department of natural resources.

(b) The rules adopted by the natural resources commission concerning the section of museums of the division of state museums and historic sites of the department of natural resources shall be treated, after June 30, 2003, as rules of the Indiana heritage commission.

(c) On July 1, 2003, all powers, duties, assets, and liabilities of the department of natural resources that are attributable to the section of museums of the division of state museums and historic sites are transferred to the Indiana state museum division of the department of Indiana heritage.

(d) After June 30, 2003, a reference to the department of natural resources in a statute or rule concerning the section of museums of the division of state museums and historic sites shall be treated as a reference to the department of Indiana heritage.

(e) After June 30, 2003, a reference to the director of the department of natural resources in a statute or rule concerning the section of museums of the division of state museums and historic sites shall be treated as a reference to the commissioner of the department of Indiana heritage.

SECTION 85. [EFFECTIVE JULY 1, 2003] (a) The public records division renamed by this act is a continuation of the commission on public records.

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(b) The rules adopted by the commission on public records shall be treated, after June 30, 2003, as rules of the public records division.

(c) On July 1, 2003:

(1) all powers, duties, assets, and liabilities of the commission on public records relating to a forms management program and the establishment of a distribution center for state government are transferred to the department of administration; and

(2) all other powers, duties, assets, and liabilities of the commission on public records are transferred to the public records division.

(d) After June 30, 2003, a reference to the commission on public records in a statute or rule shall be treated as a reference to the public records division.

SECTION 86. [EFFECTIVE JULY 1, 2003] (a) A member of the historic preservation review board appointed under IC 14-21-1 (before its repeal by this act) shall continue to serve as a member of the historic preservation review board established by IC 4-35-5-35, as added by this act, until the end of the term for which the member was appointed.

(b) Notwithstanding IC 4-35-5-35(d), as added by this act, the commissioner may appoint one (1) or both of the members of the historic preservation review board under IC 4-35-5-35(b)(4), as added by this act, to an initial term of less than three (3) years.

(c) This SECTION expires July 1, 2006.

SECTION 87. [EFFECTIVE JULY 1, 2003] (a) Notwithstanding the repeal of IC 4-23-7.2-7 by this act, funds that are in the historical bureau publications and educational fund as of June 30, 2003, are transferred to the historical publications and educational fund established by IC 4-35-6-19, as added by this act.

(b) Notwithstanding the repeal of IC 4-23-7.2-9 by this act, funds that are in the governor portraits fund as of June 30, 2003, are transferred to the governor portraits fund established by IC 4-35-6-31, as added by this act.

(c) This SECTION expires July 1, 2004.

SECTION 88. [EFFECTIVE JULY 1, 2003] (a) The legislative services agency shall prepare legislation for introduction in the 2004 regular session of the general assembly to organize and correct statutes affected by the transfer of responsibilities to the department of Indiana heritage by this act.

(b) This SECTION expires June 30, 2004.



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